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ABSTRACT

This study examines whether there is disproportionate discipline of minority students in Michigan's public schools and assesses the enforcement efforts of State and Federal agencies to ensure equal educational opportunity in this regard. The extent to which minority students were being disproportionately suspended and expelled was studied, as were the actions of the state government and the Office of Civil Rights, and ancillary problems related to these issues. Chapter 1 provides an overview of the situation and civil rights enforcement efforts. Chapter 2 defines school discipline and presents Michigan's statistics on discipline in the public schools. Chapter 3 explores the experiences of two urban local school corporations in Michigan, and Chapter 4 examines the structure and authority of the Michigan Board of Education and the State Department of Education. Chapter 5 reviews the role of the Federal government in school discipline. In Chapter 6, the relation of disability to school suspensions and expulsions is explored. Chapter 7 is an addendum that presents recent developments in school discipline in Michigan. The Advisory Committee presents its conclusions in Chapter 8. It is found that minority students are being suspended and expelled from the state's public schools at a disproportionately higher rate than nonminority students. Although such a finding is not tantamount to a judgment of discrimination, such a finding is disturbing. Also disturbing is that neither State nor Federal governments have made an effort to help local school officials analyze and correct this problem. Eight appendixes present additional details about the study and its conclusions. (Contains 1 figure and 19 tables.) (SLD)

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ED 407 449

Discipline in Michigan Public Schools and Government Enforcement of Equal Education Opportunity

Michigan Advisory Committee to the U. S. Commission on Civil Rights

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March 1996

A report of the Michigan Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission and the Commission will make public its reaction. The findings and recommendations of this report should not be attributed to the Commission but only to the Michigan Advisory Committee.

UD031685

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Discipline in Michigan Public Schools and Government Enforcement of Equal Education Opportunity

Michigan Advisory Committee to the U. S. Commission on Civil Rights

March 1996

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Letter of Transmittal

Michigan Advisory Committee to the
U.S. Commission on Civil Rights

Members of the Commission
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Cruz Reynoso, *Vice Chairperson*
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Yvonne Y. Lee
Russell G. Redenbaugh

Mary K. Mathews, *Staff Director*

The Michigan Advisory Committee submits this report, *Discipline in Michigan Public Schools and Government Enforcement of Equal Education Opportunity,* as part of its responsibility to advise the Commission on civil rights issues within the State. The Advisory Committee is indebted to the staff of the Midwestern Regional Office for statistical analysis, background research, and editorial assistance in the development of this report. The report was unanimously adopted by the Advisory Committee by a 13–0 vote.

The Advisory Committee held a factfinding meeting on August 3 and 4, 1994, to obtain perspectives and facts on the administration of discipline in Michigan secondary public schools. Those invited to participate included the Governor, the State board of education, government officials, researchers, the local school districts of Lansing and Ypsilanti, other local school administrators, community groups, and parents. The Michigan Board of Education, the Office for Civil Rights of the U.S. Department of Education, the Lansing Public School District, and the Ypsilanti Public School District were afforded the opportunity to review the report prior to its submission to the Commission.

The Advisory Committee finds minority students in Michigan being suspended and expelled from public schools at a disproportionately higher rate than nonminority students. Acknowledging that a finding of disproportionate discipline is not tantamount to a judgment of discrimination, such findings are disturbing. With productivity—both for individuals and society—related to educational achievement, such school practices may lead to a group of citizens less educated, less prepared, and less willing to contribute to society.

Of additional concern to the Advisory Committee is finding that, in the face of this disproportionate discipline, neither the State, through the Michigan Department of Education, nor the Federal Government, through the Office for Civil Rights, U.S. Department of Education, has invested time or resources to assist local school officials examine this problem and determine if alternative or corrective measures could be taken.

Respectfully,

Janice G. Frazier

Janice G. Frazier, Ed.D., *Chairperson*
Michigan Advisory Committee

Michigan Advisory Committee to the U.S. Commission on Civil Rights

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Chapter 1

Introduction

In releasing the 1993 U.S. Commission on Civil Rights monitoring report, *Enforcement of Equal Employment and Economic Opportunity Laws and Programs Relating to Federally Assisted Transportation Projects*, former Chairperson Arthur A. Fletcher spoke of the need for vigorous civil rights enforcement to ensure domestic racial peace.

> If we as a Nation are going to address the pervasive causes of racial tension and urban unrest, and put an end to the cycle of rioting that has most recently shaken cities like Los Angeles, Atlanta, and Washington, D.C., a vigorous civil rights enforcement effort is critically needed.[1]

William J. Bennett, former Secretary of Education, often stressed the importance of education, and wrote in support of the responsibility society has in providing equal educational opportunity.

> Plato taught that a civilization faces one fundamental task above all other: the upbringing, nurture, and protection of its children. This solemn commitment must be upheld in special measure with respect to those in our society with special needs.
>
> In education, the primary responsibility for meeting those needs rightly belongs with State and local authorities. But the Federal government can—indeed, the Federal government must—assist those efforts. It must, for example, ensure equal access and opportunity in education for all its citizens. It should provide national leadership by focusing the country's attention on quality education. It should serve as a clearinghouse of important research and statistical findings. And it should provide assessments on educational programs which will improve educational performance.[2]

At the Federal level, the Office for Civil Rights (OCR), U.S. Department of Education, enforces four Federal statutes that prohibit discrimination in programs and activities receiving Federal financial assistance. Discrimination on the basis of race, color, and national origin is prohibited by title VI of the Civil Rights Act of 1964; sex discrimination is prohibited by title IX of the Education Amendments of 1972; discrimination on the basis of disability is prohibited by section 504 of the Rehabilitation Act of 1973; and age discrimination is prohibited by the Age Discrimination Act of 1975.

The principal enforcement activity of OCR is the investigation and resolution of complaints. In addition OCR addresses potential systemic problems by conducting compliance reviews of selected institutions.[3] On December 11, 1990, OCR released its "National Enforcement Strategy" for FY 1991 and 1992. In that strategy, OCR set out its enforcement goals for the next 2 years, and included six priority issues for special emphasis. One of those issues was discrimination on the basis of race and national origin in student discipline.[4]

The State of Michigan has two agencies that deal with civil rights enforcement in education. The Michigan Department of Civil Rights is

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1 U.S. Commission on Civil Rights, news release, Jan. 11, 1993.

2 U.S. Department of Education, "Educating Students With Learning Problems: A Shared Responsibility," foreword by William J. Bennett, November 1986.

3 Office for Civil Rights, U.S. Department of Education, "Education and Title VI."

4 U.S. Department of Education, Office of the Assistant Secretary for Civil Rights, *National Enforcement Strategy for Civil Rights FYs 1991–1992* (Dec. 11, 1990).

mandated by law to protect the rights of students and has the authority to receive and investigate complaints in education where discrimination based on race, sex, religion, national origin, age, marital status, or disability is alleged. The Michigan Department of Education accepts complaints from parents and guardians of children in public schools. Among the common categories of complaints are: behavioral problems, discipline, suspension, and expulsion.

Charles Vergon reported that in 14 out of the 17 years since the inception of the Gallup Educational Survey, student discipline has ranked as the single greatest public concern regarding our nation's schools. A succession of studies, initially focusing on school disruption in the late 1960s, then student rights in the early 1970s, and, more recently, on violence and vandalism has made school discipline a staple of our public debates on education.[5]

Michigan ranks sixth in the Nation in its reliance on suspensions and expulsions as a disciplinary tool.[6] Although there is no recent data to indicate Michigan's current rating, anecdotal testimony would suggest that it has not improved. Between 1978 and 1986, school suspensions in the State increased by 40 percent. African American and Hispanic students in Michigan were suspended during this period at much higher rates than whites.

Between 1976 and 1986, the suspension rate for African Americans was 167 per 1,000 students; for Hispanics the rate was 100 per 1,000 students. The rate of suspensions for whites was 56 per thousand students. American Indian and Asian students were suspended at rates lower than whites.[7] One recent local study showed this pattern continuing. In the 1990–1991 school year, Ypsilanti black students, who are one-third of the school population, accounted for nearly two-thirds of the disciplinary suspensions.[8]

There are two government agencies charged with collecting data on school discipline; those data are sparse and virtually nonexistent. Section 388.1757 of the Michigan State School Aid Act requires "each district . . . furnish the department [of education] the information . . . that is necessary for the preparation of suspended or expelled students in grades K to 12 as required by section 307 of the 1991–92 department of education appropriations act."[9] In addition, OCR is charged with collecting survey data from districts in the State on the type of discipline and the race of the disciplined student.

Although public education has always received a great deal of attention, the interest has increased in recent years as economic and social concerns have increased over the role of public education and its cost. In 1989 President Bush and the Nation's Governors identified six major goals that public education should attain by the year 2000. The six goals are:

- Goal 1—readiness: All U.S. children will start school ready to learn.
- Goal 2—high school completion: The high school graduation rate will increase to at least 90 percent.
- Goal 3—academic outcomes: U.S. students leaving grades 4, 8, and 12 will have demonstrated competency in important subjects such as english, mathematics, science, history, and geography; in addition, students will be prepared for responsible and productive lives as citizens and employees.
- Goal 4—science and mathematics: U.S. students will be the first in the world in science and mathematics.

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5 Charles B. Vergon, "Disciplinary Actions in Michigan Public Schools: Nature, Prevalence and Impact 1978–1986," mimeo, Law and Policy Institute, University of Michigan, unpublished (hereafter cited as Michigan Disciplinary Actions).

6 Michigan Disciplinary Actions, p. 2.

7 Michigan Disciplinary Actions, p. 3.

8 Janet Miller, "Blacks still suspended more often," *Ann Arbor News*, Sept. 10, 1992, p. C1.

9 Michigan State School Aid Act, Mich. Comp. Laws § 388.1757 (1991).

• Goal 5—adult literacy: Every adult American will be literate, possessing the knowledge and skills necessary for competing in a global economy and for exercising the rights and responsibilities of citizenship.
• Goal 6—safe, drug-free schools: Every U.S. school will be free of drugs and violence and will offer a safe environment conducive to learning.

This is the Michigan Advisory Committee's second examination of educational issues in the State in recent years. Earlier the Advisory Committee examined the issue of minority dropouts in it report, *Civil Rights Implications of Minority Student Dropouts*, released in March 1990. In that report it was suggested that a relationship existed between unfair discipline practices toward minority students and minority dropouts.

Many reasons for the high rate of minority student dropouts were advanced by forum participants and in various research reports submitted to the Advisory Committee. Reasons cited were segregation, unfair discipline practices, curriculum bias, teenage pregnancy, low achievement and self esteem, shortage of qualified teachers, and poverty.[10]

Subsequent to the Advisory Committee's report, a study by the National Center for Education Statistics found significantly higher dropout rates for minority students. The dropout rate for non-Hispanic whites is 7.7 percent, while the dropout rate for non-Hispanic blacks is 13.7 percent; for Hispanics it is 29.4 percent.[11] However, the report also notes that although the dropout rate for blacks was higher than the rate for whites. When comparing blacks and whites by income level, there were no differences between dropout rates.[12]

The issue of out-of-school discipline and the loss of academic work and its impact on minority students also affects minorities and their participation in higher education. Suspensions and the loss of academic work handicap students in their opportunity to prepare and succeed at the college level. Although the proportion of African Americans who had completed 4 or more years of college rose from 4 percent in 1970 to 8 percent in 1980, more recent studies show a widening gap in minority and nonminority college graduation rates.

Black college-student retention communicate[s] a . . . dismal situation. By 1991, . . . while approximately half of White college students were graduating six years after entering college, barely 25 percent of all successfully recruited minority students were doing so.[13]

The issue of discipline and violence in the public schools is a growing concern in many communities. In a 1993 survey of parent and student perceptions of the learning environment at school, overall American parents and youth express mildly positive opinions regarding the learning environments at the schools with which they have personal experience.[14]

When parents were asked about the adequacy of discipline at their children's schools, an 88 percent majority agreed that the child's teachers maintain good discipline in the classroom, and a 91 percent majority said the principal maintains good discipline. Among students, 81 percent expressed at least mild agreement that their teachers maintained good discipline in the classroom,

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10 Report of the Michigan Advisory Committee to the U.S. Commission on Civil Rights, *Civil Rights Implications of Minority Student Dropouts*, March 1990, p. 25.

11 U.S. Department of Education, Office of Educational Research and Improvement, National Center for Education Statistics, *Dropout Rates in the United States: 1992*. September 1993, p. 16.

12 Ibid., pp. 17–18.

13 Peter Kobrak, "Black Student Retention in Predominantly White Regional Universities: The Politics of Faculty Involvement," *Journal of Negro Education*, vol. 61, no. 4 (1992), p. 509.

14 U.S. Department of Education, Office of Educational Research and Improvement, National Center for Education and Statistics, "Parent and Student Perceptions of the Learning Environment at School," September 1993, p. 2.

TABLE 1.1
Race/Ethnic Population Rates and Race/Ethnic Public School Enrollment Rates

	Public school enrollment	State population
White	77.8%	82.2%
African American	17.1	13.9
Hispanic	2.9	2.2
Asian	1.3	1.1
American Indian	0.9	0.6

Source: Midwestern Regional Office, USCCR.

while 89 percent agreed that their principal maintained good order at the school.[15]

Some studies suggest that discipline issues in the secondary schools have their roots in the earlier grades. A longitudinal study relating early school behaviors to later school outcomes was reported by Spivack and Cianci. The study revealed a consistent pattern of significant association between behavior in the early grades and discipline in the later grades. With regard to school conduct disturbance, the dominant predictors were early classroom disturbance, impatience, and disrespect and defiance.[16]

Michigan Demographics

The population of Michigan is 9,295,407.[17] Almost 20 percent of the population is minority. There are 1,292,208 (13.9 percent) African Americans; 202,347 (2.2 percent) Hispanics; 105,101 (1 percent) Asians and Pacific Islanders; and 56,298 (fewer than 1 percent) American Indians.

There are 562 public school districts in Michigan with an enrollment of 1,633,981 children.[18] Of these, 1,258,734 are white; 275,386 are African American; 47,265 are Hispanic; 20,933 are Asian/Pacific Islander; and 13,988 are American Indian. Another 21,675 are classified as other. A listing of all students by race, ethnicity, and school corporation is in appendix II.

The enrollment rates of public school children diverge from State population percentages. All minority groups make up a larger percentage of public school enrollment than their percentage of the State population. African Americans, who are 13.9 percent of the State population, are 17.1 percent of the students in public schools. Asians, Hispanics, and American Indians also have higher public school enrollment rates than population rates. Whites, the largest group in the State, are the only group with a student enrollment rate lower than their percentage of the population. Whites are 82 percent of the State's residents, but are 78 percent of the students in public schools.

The Factfinding Meeting

This study by the Advisory Committee to the U.S. Commission on Civil Rights examines whether there is disproportionate discipline of minority students in public schools and assesses the enforcement efforts of State and Federal agencies to ensure equal educational opportunity in this regard. The central issue of this report is whether minorities are being adversely affected

15 Ibid.

16 G. Spivack and N. Cianci, "High Risk Early Behavior Pattern and Later Delinquency," J.B. Burchard & S.N. Burchard (Eds) in *Prevention of Delinquent Behavior*. Beverly Hills, CA: Sage Publications, 1992.

17 1990 public census.

18 State of Michigan, Information Center/DMB, from U.S. Bureau of Census and National Center for Education Statistics.

in the discipline practices of the Michigan public schools.

In examining this issue the Advisory Committee uses the term disproportionate in relationship to discrimination in the following sense. Disproportionate refers to a situation where the ratio of actions taken with respect to one group compared to that group's population differs significantly from the ratio of similar actions taken with respect to another group compared to its population. Evidence of discrimination is not implied by observations of disproportionate treatment.[19]

The study is fourfold:

- First, determine the extent that minority students are being disproportionately suspended and expelled from public schools.
- Second, examine the actions of the State government with respect to: (1) the collection of discipline data, (2) studies of disproportionate discipline, (3) compliance reviews of discipline in school corporations, and (4) investigations and resolutions of individual complaints of disparate discipline.
- Third, examine the actions OCR has taken on the issue of discipline in Michigan with respect to: (1) the collection of discipline data, (2) an overall study of disproportionate discipline, (3) compliance reviews of discipline in local school districts, and (4) investigations and resolutions of individual complaints of disparate discipline.
- Fourth, examine ancillary problems related to this issue, specifically matters of disability and discipline, the use of the judiciary to enforce school conduct, discipline issues and solutions at the local level, and community concerns.

The issue of school discipline is a matter of real concern in many communities. The issue is often frustrating and contentious among different segments in a community—all equally concerned about quality education. Opinion is divided on the optimal approach to disciplining students, some arguing for more punishment and others calling for more prevention. The Advisory Committee conducted a 2-day factfinding meeting. Three half-day sessions were held in two different locations. The first day's meeting was in Lansing, Michigan, on August 3, 1994, the second session was held in Ypsilanti on August 4, 1994.

Those invited to testify before the Advisory Committee included current officials with the OCR, members of the State board of education and the Michigan Department of Education, school superintendents, school officials, educators, and parents from the local school corporations of Lansing and Ypsilanti, juvenile court judges, State legislators, researchers, and community groups. To ensure that a balanced presentation was received by the Advisory Committee, presenters included State legislators from both political parties, school officials who implement disciplinary policy, individuals in the community affected by those policies and decisions, and a public session at which anyone could address the Advisory Committee. An agenda of presenters is in appendix I.

Dorothy Beardmore, a member of the Michigan Board of Education, recounted some of the recent debate in the State on school discipline and the State's recent political decision. She offered her opinion that the recent direction of school discipline in Michigan is more focused on punishment than on prevention.

> There are some differences of philosophy . . . between a punitive approach and a preventative approach, and much of the legislation becomes focused more on punishment. For example, there was a time when there were school safety grants that were permitted by the legislature. The State board of education's position was that the focus of those grants should be for preventing violence and misdemeanors in the schools and that it should not be spent for punitive methods and it should not be spent—as a most typical example at that time which was—for metal detectors. So what happens in the political process? The next year people who wanted to have metal detectors and police officers as the primary focus of preventing disciplinary problems have

19 See U.S. Commission on Civil Rights, *Report of the United States Commission on Civil Rights on the Civil Rights Act of 1990*, July 1990.

convinced enough legislators that that was the way to go. Therefore, the next year the school safety grants were specifically permitted by legislation to cover metal detectors. Since that time that is one of the primary expenditures for attempting to solve problems in education. The school safety grants have long disappeared and there is not State funding in that same way that there once was.[20]

Wilbur Brookover, a researcher of education and retired professor of education at Michigan State, claimed that discipline arguments centering on prevention measures versus punishment were both faulty. From his 50 years of research, he offered that in spite of the evidence and demonstration in a few schools that essentially all children can learn and will learn what they are expected to learn and learn what they are taught, schools continue the practice of discrimination in the instructional programs.[21] He believed that is this discrimination that causes discipline problems in the schools.

I would speculate that a major factor in the problems of discipline and suspension grow out of the discriminatory practices of public education.... There is extensive discrimination in educational opportunities and programs which is characteristic of almost all schools and almost all school systems in the United States.... I submit that the differentiation of school programs and the placement of many students in inferior low level instructional programs produce the problems of discipline and suspension we have been talking about.... The disciplinary problems are almost exclusively among those students who are in whatever may be called the lower academic programs.[22]

Chapter 2 of this report defines the issue of school discipline and presents statistics on discipline in the Michigan public schools. The first data set is a 1987 study by the Law and Policy Institute of the University of Michigan. This is followed by an Advisory Committee analysis of data from an OCR survey during the 1991–1992 school year. Both analyses present evidence that minorities, and in particular African American students, are disproportionately disciplined in Michigan public schools. It concludes with excerpts of personal stories and experiences from parents, community members, administrators, and students of how the administration of discipline has affected the students and their families. The stories and accounts highlight the complexity, seriousness, and cost of the issue in personal terms.

Chapter 3 explores the experiences of two local school corporations in Michigan with regard to the discipline issue, as well as perspectives from a county juvenile court, and alternative education programs in the area. The two school districts are Lansing and Ypsilanti. The districts were not selected because of any particular problems these corporations had in the area of school discipline, but because both had a large percentage of students from several racial and ethnic backgrounds and significantly large minority populations.

Chapter 4 examines the structure and authority of both the Michigan Board of Education and the Department of Education. Data collection efforts by these agencies and their roles in ensuring that discipline is race neutral are examined. In addition, the role of the Michigan Department of Civil Rights is explored, including the number of education complaints it has acted upon in recent years and the outcome of those investigations.[23]

Chapter 5 looks at the role of the Federal Government in school discipline. Most of this examination centers on the Office for Civil Rights of the Department of Education. The complaint procedure, investigations, and resolutions are

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20 Testimony before the Michigan Advisory Committee to the U.S. Commission on Civil Rights, factfinding meeting, Lansing, MI, Aug. 3, Ann Arbor, MI, Aug. 4, 1994, transcript, pp. 20–21 (hereafter cited as Transcript).

21 In support of this assertion, Brookover cited research that showed cases of minority students from lower socioeconomic backgrounds, who were afforded appropriate college preparatory opportunities, graduating at the same level and going to college at nearly the same level as students from the higher socioeconomic strata. (See Transcript, p. 73.)

22 Transcript, pp. 49, 52, and 53.

23 The Michigan Department of Education was given the opportunity to review a draft of this report prior to its publication.

analyzed. The Community Relations Service (CRS) of the Department of Justice is also mentioned in this chapter, as this agency has the authority to mediate racial and ethnic disputes in local communities, and this authority extends to local school corporations. The CRS has successfully mediated at least one racial issue in a public school in Michigan in recent years.[24]

Chapter 6 addresses an ancillary issue to the matter of disproportionate minority discipline: the relationship of disability to school suspensions and expulsions. The chapter presents both statistics and perspectives on the association of discipline and disability.

Chapter 7 is an addendum to the report containing significant developments subsequent to the factfinding. These developments include the enactment of State legislation regarding school suspension and expulsion policy, the recommendations of the State's department of education's task force on school violence and vandalism, and recent initiatives by the Michigan Department of Civil Rights to focus on school discipline issues.

Chapter 8 presents the Advisory Committee's findings and its recommendations. The Michigan Advisory Committee is structured to be diverse, representing a broad spectrum of political views, and independent of any national, State, or local administration or policy group. Its findings and recommendations are made in a genuine spirit of cooperation and bipartisanship.

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24 The Office for Civil Rights, U.S. Department of Education, was given the opportunity to review a draft of this report prior to publication.

Chapter 2

Discipline and Minority Students in Michigan Public Schools

Robert Schiller, superintendent of public instruction, State of Michigan, said, "I think we all realize that students in Michigan schools are involved in acts that require disciplinary action; particularly for violent acts."[1] The concern of the State board of education is that the staff and students of school districts be able to survive and educate in a safe environment, free from harm, and free from any serious impingement on the educational process. Schiller supported Brookover's claim that students who succeed in school are least likely to engage in violence at the school. "We know that children who succeed at school are at least risk for violence than their nonsuccessful peers."[2] But he added that schools alone cannot solve society's problems, and when it comes to disciplining students "schools have very few tools and policies available to them in order to deal with those incidents and those students who cause concern."[3]

Percy Bates, director of Programs for Education Opportunity, testified that his examination of data shows minority students in Michigan schools being disciplined at higher rates than nonminorities. Further, since it is minority males who are incurring the most discipline, to Bates, "It is quite clear that we have to be able to find a way to cut through this issue that seems to run through many of our schools."[4] In Bates view, the issues of school discipline and suspensions are a particularly timely subject, given the discussions about educational quality.

> We spend a lot of time talking about achievement gaps. But it is pretty clear that one cannot be educated if he or she is not in school. When we take all of the reasons and put them together as to why some children are not in school and count those numbers, I think it becomes readily apparent that we are going to have a serious problem educating the children . . . because many of them are not there.[5]

Law & Policy Institute Discipline Study

Using data collected from school districts across the country by the Office for Civil Rights of the U.S. Department of Education, the Law & Policy Institute studied the nature, prevalence, and impact of various disciplinary measures for the State of Michigan and for selected samples of Michigan public school districts between 1978 and 1986. Included in the 1986 sample were 115 Michigan school districts including urban, suburban, and rural systems. The Detroit Public Schools, because of its uniqueness in size and the changes in how it defined suspensions over the period studied, was excluded from both the state projections and district analyses. Similar analyses of the nature, prevalence and impact of suspensions and expulsions were carried out for the Midwest and the United States, allowing comparisons between Michigan's practices and broader regional and national patterns.[6]

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1 Testimony before the Michigan Advisory Committee to the U.S. Commission on Civil Rights, factfinding meeting, Lansing, MI, Aug. 3, 1994, transcript, pp. 9–10 (hereafter cited as Transcript).

2 Ibid., p. 14.

3 Ibid., p. 11.

4 Ibid., p. 469.

5 Ibid., p. 467.

According to Charles Vergon, author of the study, in 1986, and each year since 1978, over 100,000 Michigan elementary and secondary school students became enmeshed in disciplinary proceeding leading to corporal punishment or suspension. This resulted in a Michigan suspension rate of nearly 70 students per 1,000, as contrasted to a national rate of about 50. Michigan students were 44 percent more likely to experience suspension than were their classmates nationwide.[7]

According to Vergon, the State of Michigan has a very high suspension rate, and minority students are suspended from public schools in the State at much higher rates than white students.

Compared with the other 50 states and the District of Columbia, only five states suspended a greater proportion of their school-age population than did Michigan. These states were Maryland, Florida, Louisiana, Delaware, and South Carolina. By contrast three states—Texas, North Dakota, and South Dakota—suspended fewer than 15 students per thousand. Even within Michigan, substantial variations emerged among the 114 districts studied in depth. Although the suspension rate for the entire state was 70 students per thousand, it ranged from a low of 0 in four districts to a high of 311 students per thousand in one community. A total of 17 districts reported rates in excess of 100 students per thousand. Further analysis revealed that about one-fifth of the districts, enrolling 22 percent of the students, accounted for nearly 50 percent of all the students suspended in 1986.

This research also examined the impact of disciplinary actions on various student populations to ascertain if some were at greater risk of suspension. . . . We found that in Michigan, like the U.S. and the Midwest, males accounted for approximately 7 of every 10 suspensions. Minority students as a group, and African American and Hispanic students in particular were suspended at higher rates than whites in Michigan. The suspension rate for minorities was 141 as compared to a rate of 56 students per thousand for non-minority students. By far the highest incidence of suspension involved African Americans who were suspended at a rate of 167 students per thousand, followed by Hispanics at a rate of 100 per thousand. American Indian and Asian students were suspended at rates lower than whites. African Americans also had the highest suspension rates in the United States, although because of the high incidence of suspension in the state, Michigan blacks were almost twice as likely to experience suspension as their black counterparts nationwide.

While the suspension rate for African Americans rose by a substantial 61 percent between 1978 and 1986, the relatively small Asian population registered the largest increase in suspension rate, a jump of 148 percent over the 8-year period. The suspension rate for Hispanics also increased by more than 100 percent, although most of the increase was attributable to a sharp rise in a single 2-year period between 1984 and 1986. Even with these trends, the larger picture remained relatively constant. In each of the four years examined, Michigan suspended a greater proportion of its enrolled student population than did districts in the nation, and in four of the five years at a rate greater than districts in the Midwest.[8]

Vergon told the Advisory Committee that the Institute is extending the analysis into the 1990s. Direct comparisons between the two studies are precluded because of differences in the sampling techniques employed by the Federal Government. Still, a pattern of high minority discipline rates is observed in both studies.

The study of 144 Michigan districts . . . for which data are available for 1990, reveals the continuing persistence of high levels of suspension and disparities at least within this sample of districts. They reported an overall suspension rate of 63 per 1,000 students. African American students were more than twice as likely to experience suspension as their white classmates: 117 as contrasted to 52 students per 1,000. Suspension rates by racial groups and gender for 1990 are

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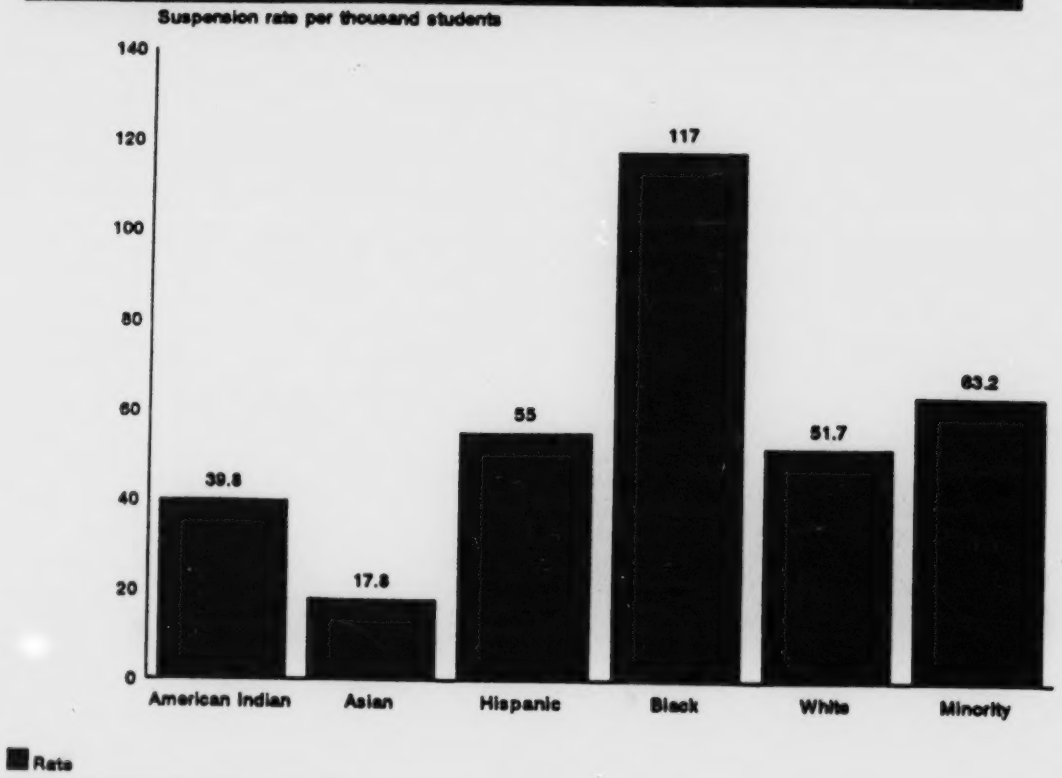
6 Charles B. Vergon, Law & Policy Institute, Statement to the Michigan Advisory Committee to the U.S. Commission on Civil Rights, Ann Arbor, MI, Aug. 4, 1994, p. 1.

7 Ibid., p. 2.

8 Ibid., pp. 2–3.

TABLE 2-1
Suspension Rates by Racial Group for a Sample of Michigan School Districts in 1990



Source: Vergon, Charles B., from OCR sample of 144 public school districts.

displayed in [table 2-1] for this group of Michigan districts. As in prior periods and samples, the rate of suspensions varied substantially from district to district. In 1990 suspension rates ranged from 0 to in excess of 300 students per 1,000, with 18 districts suspending over 100 students per 1,000. . . . The pattern suggests that while a significant number and proportion of all districts operate with little reliance on suspensions, a small cluster of districts suspend in excess of 1 in every 10 students at least once each academic year.[9]

The reasons for the racial disparity are arguable, according to Vergon. His research notes three generally proffered causes for the disproportionality in terms of suspension: (1) differential behavior on the part of students from groups with low socioeconomic status, (2) differential treatment by school staff or by organizational and institutional policies, and (3) inconsistent applications of school procedures or rules.

Roberta Stanley, director of the Tenure and Federal Relations Commission, Michigan Department of Education, advised the Advisory Committee that this study might be flawed. Responding to a question that the study demonstrates a prob-

9 Ibid., p. 3.

lem with respect to disparate treatment, Stanley told the Advisory Committee:

> In reviewing that [study], one it is somewhat dated today, but two, we . . . wondered about the sample from which that study was drawn. Ninety percent of the pupils in the State of Michigan are in 10 percent of the districts. So you can ask [whether] the district, depending on the sample, and the community takes on different tenors based on the leadership of the community at any given time. As I mentioned, during difficult economic times, if a plant had closed in a district, for instance, in Ypsilanti we have had that, . . . it causes great disruption in the community. And those factors can come into play. Otherwise there would not be those kind of difficulties present in the schools or on the streets. The character of our State is very disparate from one end to the other.[10]

Advisory Committee Analysis of Minority Discipline

The Advisory Committee analyzed the most recent discipline survey data from the Office for Civil Rights to determine the impact of school discipline on minorities. The survey, concluded in January, 1993, covered 112 Michigan public school corporations and included each school in the surveyed district. The 1991–1992 school year was the year of record for the survey. The list of school corporations in the OCR survey is in table 2-2.[11]

The discipline section of the survey asked for the total enrollment by race/ethnicity and gender, corporal punishment administered by race/ethnicity and gender, and suspensions by race/ethnicity and gender. Since corporal punishment is not allowed in Michigan public schools, only suspension data was analyzed. In addition, the survey asked for the number of total disabled students at the school and the total of corporal punishments and suspensions administered to this group. Discipline meted out to disabled students was not broken down by race and ethnicity.

The number of suspensions and student population by race and ethnicity were tabulated for each school district in the survey. The race and ethnic categories included white (not Hispanic), black (not Hispanic), American Indian (not Hispanic), Asian/Pacific Islander (not Hispanic), other (not Hispanic), and Hispanic. For the purposes of this data analysis, students classified as other were considered minorities. Added to the data were the number of students in each racial/ethnic category within the school district defined as being in poverty status.[12] Poverty is an arbitrary measure of the quality of life and was included as a proxy for socioeconomic status.[13] The percentage of persons below the poverty line in Michigan is 14.3.[14]

Using this data set, four ratios were calculated for each school district:

- the percentage of minority students in the school district,
- the percentage of suspensions given to minority students,
- the percentage of students in poverty,
- the percentage of minority students in poverty,
- the percentage of suspensions given to black students, and
- the percentage of black students in poverty.

There was a wide range among the school districts in the number of students, the number of

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10 Transcript, pp. 45–46.

11 U.S. Department of Education, Office for Civil Rights, Fall 1992 Elementary and Secondary School Civil Rights Compliance Report and Individual School Report: ED102, OMB no. 1870-0550.

12 Poverty status data was obtained from the Michigan Information Center/DMB.

13 Relying on studies that found the average family in the United States spent about a third of its income on food, when the Federal Government decided to begin measuring poverty in the 1960s it calculated the cost of buying food that met a predetermined nutritional standard and multiplied that cost by 3.

14 U.S. Department of Commerce, Statistical Abstract of the United States, 1992, table no. 723. Percent of Persons Below Poverty Level, by State: 1984 to 1990, p. 458.

TABLE 2-2
Michigan Public School Districts Surveyed by Office for Civil Rights, U.S. Department of Education

Alcona
Almont
Alpena
Ann Arbor
Bangor
Baraga
Bark River Harris
Bath
Beecher
Belding
Benzie
Berrien Springs
Big Rapids
Birmingham
Blissfield
Bloomfield
Brandywine
Bridgman
Brimley
Buena Vista
Burt Township
Byron
Byron Center
Cadillac
Calumet
Caro
Carrollton
Carson City Crystal
Cassopolis
Central Montcalm
Charlotte
Chassell Twp
Climax
Constantine
Delton Kellogg
Dowagiac
East China Twp
East Detroit
East Lansing
Easton Rapids
Engadine
Falmouth
Farmington
Fenville
Ferry
Flint City
Fraser
Ganges
Garden City
Gobles
Greenville
Hancock
Harbor Springs
Hartland
Haslett
Hillsdale
Holt
Hudsonville
Huron Valley
Ida
Lake Orion
Lakeview
Lapeer
Lawton
Les Cheneaux
Leslie
Lincoln Park
L'Anse Creuse
Manistee
Marcellus
Mar Lee
Marlette
Mason
Whitmore Lake
Michigan City
Millford
Mio Au Sable
Mona Shores
Montague
Morenci
Morley Stanwood
Munising
New Buffalo
Oakridge
Okemos
Oxford
Peck
Petoskey
Pinconning
Pittsford
Portage
Ravenna
Reeths Puffer
Riverview
Rockford
Roseville
Rudyard
Saginaw
Saline
Shepard
South Redford
Southfield
St. Joseph
Sturgis
Swan Valley
Thornapple
Trenton
Van Dyke
Vassar
Walled Lake
Woodhaven

Source: Midwestern Regional Office, USCCR, from Office for Civil Rights, U.S. Department of Education, January, 1993.

TABLE 2-3
Student Enrollment, Disciplines, and Poverty

	Mean	Maximum	Minimum
Students	3,377	28,922	40
Suspensions	184	2,942	0
Suspension ratio	0.04	0.19	0
Students in poverty	597	15,670	4
Poverty ratio	0.17	0.61	0.01

Source: Midwestern Regional Office, USCCR.

minority students, the number of suspensions, and the number of students in poverty. Among the school districts in the sample, the average number of students was 3,377. The largest district had 28,922 students, and the smallest had 40. The number of minority students also varied widely. The average number of minority students in a district was 582, with the largest number of minority students being 19,519. One school district had no minority students.

The average number of suspensions per school district was 184. The largest number of suspensions in one district was 2,942. Seven districts had no suspensions. More critical is the ratio of suspensions to students. The average ratio of suspensions-to-students was 0.04, or 4 suspensions per 100 students; the highest ratio was 0.19, 19 suspensions per 100 students; the lowest rate of suspension among the sampled schools was 0, in the seven school districts with no suspensions.

There was a positive, but not significant correlation, between the number of students in a district and the ratio of suspensions-to-students, $\rho = 0.23$. This suggests that the decision to use suspension as a discipline is more a decision variable of the individual administration.

The average number of students in poverty per school district was 597. The largest population of students in poverty was 15,670, while the lowest number of students in a school district in poverty was 4. The poverty-to-student rate averaged 0.17, or 17 students in poverty for every 100 enrolled students. This rate is slightly higher than the overall rate of poverty (14.3 percent) in the State.

A wide variance (σ=0.11) was observed in the poverty-to-student ratio among the surveyed school districts. The largest poverty-to-student ratio was 0.61, or 61 of every 100 students living in poverty. The smallest ratio was 0.01, one student in every 100 students living in poverty. The correlation between a school district's poverty-to-student rate and its suspension-to-student rate was 0.33, suggesting there may be some positive relationship between suspension and poverty. This association is stronger when the absolute numbers of suspensions and the absolute number of students in poverty are determined. The correlation between the number of suspensions in a school district and the number of students in poverty is 0.89. This implies that as the number of students in a school district who live in poverty increases, the number of student suspensions also increases, and offers some support to Brookover's claim that lower student socioeconomic status adversely effects educational opportunities, which in turn cause greater discipline problems at the school.

Minority Discipline

At issue in this report is whether minorities are being adversely affected in the discipline practices of the Michigan public schools. The aggregate data from the OCR survey suggests that minorities do receive a disproportionately high number of suspensions, and the disproportionate impact of school suspensions is particularly evident with respect to African American and Hispanic students.

The schools in the OCR survey meted out 20,702 suspensions during the 1991–1992 school year. The 313,020 white students, who are 82.7 percent of the total sample enrollment, received 14,158 suspensions, or 68.4 percent of all suspensions. The 65,174 minority students, who are 17.3

TABLE 2-4
Suspension Rates by Race/Ethnicity

	Student enrollment rate	Student suspension rate
White	82.7	68.4
Black	10.8	27.2
American Indian	0.8	0.8
Asian	1.8	0.4
Hispanic	2.7	3.2
Other	1.2	0

Source: Midwestern Regional Office, USCCR, from OCR survey data.

percent of the sampled student population, received 6,544 suspensions, or 31.6 percent of these disciplinary actions.[15]

African American students bore the burden of this disparity. There are 40,729 African American students in the sampled school districts, a ratio of 10.8 percent. Suspensions of black students in those districts totaled 5,619, a rate of 27.1 percent. Hispanic students also had a higher suspension rate than enrollment rate. Hispanic students were 2.7 percent of the student population and received 3.2 percent of the suspensions. The suspension rate for American Indian students was equal to their student enrollment ratio, and the suspension rate for Asian students was lower than their percentage of the total enrollment.

To further test the relationship of minority suspensions with selected independent variables, a model of probability was developed. Estimates of the relationships between the level of poverty, student population, number of disciplines, and the minority school enrollment rate were derived from a statistical procedure known as multiple regression. Regression analysis isolates the relationship between an individual variable and the studied variable, in this case minority suspensions, holding other variables constant.

The considered regression was:

$$NWS = \alpha + \beta_1 P + \beta_2 D + \beta_3 N + \beta_4 NWR + \beta_5 NWPR +$$

where,

β_i are the coefficients,[16]

NWS is the dependent variable, i.e., the number of minority suspensions,

P is the number of students living in poverty,

D is the number of student suspensions,

N is the total student enrollment,

NWR is the ratio of minority students in the school district,

NWPR is the ratio of minority students living in poverty, and is the error term.

The results of the regression are displayed in table 2-5. The number of students in the school district living in poverty has a positive and significant effect on the number of minority students disciplined (β=0.12). Similarly, the total number of suspension disciplines imposed and the percentage of the student enrollment that is minority are both positive and significant predictors of minority student suspensions (β=0.35, β=220.63). Of interest is that school size displays a significant

15 The number of suspensions does not necessarily equal the number of students suspended. One student may incur multiple suspensions.

16 A coefficient is the weight applied to the independent variable in the best prediction of the dependent variable. It is interpreted as the slope of the relation between the independent variable and the dependent variable.

TABLE 2-5
Regression Results for Minority Suspensions

Dependent variable is minority suspensions

Variable	Coefficient	T-stat
Students in poverty	0.12	13.05
Student suspensions	0.35	7.75
Student enrollment	-0.01	-5.56
Minority student ratio	220.63	4.20
Minority poverty ratio	-0.47	-1.31

n = 112
R^2 = 0.95

Source: Midwestern Regional Office, USCCR.

and negative relationship with minority student suspensions (ß=-0.01).

The analysis also presents a disturbing portrait of intergroup relations. There is a significant and positive relationship between an increased percentage of minorities at a school and a higher level of minority suspensions. For every 2.2 percent increase in the minority ratio of the student population, there is an increase in minority suspensions. An opposite result was found for white students. An increase in the percentage of the student population that was minority was significantly and negatively related to white suspensions.[17] Vergon found a similar pattern:

> Interestingly, districts with limited numbers of minorities tend not to have particularly high suspension rates or levels of disproportionality. But there is a dramatic effect as one begins to exceed about 20 percent minority. Both the rates and the disproportionality of the suspension escalates dramatically through a level of about 60 or 70 percent minority enrollment in those communities, after which the rates and the disparities tend to decline somewhat again.[18]

Regression analysis for African American students yields similar results. Substituting blacks for minorities, black student population ratio for minority student population ratio, and black poverty rate for minority poverty rate, the independent variables poverty, student suspensions, and black student ratio have positive and significant relationships with suspensions of black students. Also, similar to the minority student regression, the independent variables, student enrollment and black poverty rate, display negative relationships with black suspensions.[19]

The data portrays an interesting relationship between poverty status and discipline. Although the number of students disciplined increases as the school district has an increased enrollment of students living in poverty (ρ=0.89), an increase in the proportion of minority students in the school district who live in poverty has neither a positive

17 A similar regression with white suspensions as the dependent variable yields:
WS = -10.0 - 0.32 P + 0.66 D + 0.02 N - 293 NWR + 3.17 WPR.

18 Transcript, p. 480.

19 The regression result with black suspensions as the dependent variable yields:
BS = -30.8 + 0.12 P + 0.27 D - 0.01 N + 232 NWR - 0.11 BPR.

nor a significant relationship with the number of suspensions given to minority students.

This implies that the discipline measure of suspension is imposed more often in school districts where the student body comes from a lower socioeconomic strata. In the OCR survey, 39 percent of all minority students, 25,455 of 65,174, live in poverty. For African American students, 48 percent, 19,659 of 40,729, live in poverty. With school districts having larger populations of children from poverty observed to employ suspensions more often, minorities in general, and African American students in particular, are in environments where suspension is more likely, and thereby end up disproportionately suspended when compared to white students who are more likely to be from higher socioeconomic strata.

The data supports studies by the Law & Policy Institute and Brookover's assertion that suspension, and by inference other forms of discipline, is disproportionately used in less affluent school districts. Vergon told the Advisory Committee:

> I have analyzed [suspensions] by community type, size, racial composition, and SES [socioeconomic status] and there does tend to be correlations with rates and disproportionality in particular with the socioeconomic status and the racial composition of the districts.[20]

Eugene Cain, superintendent of Highland Park schools, also asserted a connection between poverty and discipline, suggesting that suspension is a more likely discipline option for students who come from lower socioeconomic backgrounds.

> It is my feeling that a lot of expulsions and suspensions are largely driven by your particular economic strata. I think that you will find this more of a problem with poor white kids and minority kids than you will find with kids in [affluent areas]. I think you will find kids in [affluent areas] with problems . . . but not to the extent, not to the magnitude of the problems that are associated in poor areas.[21]

Minority Discipline in Secondary Schools

The Advisory Committee was interested in the discipline imposed in the secondary schools, particularly discipline of African American students. Using OCR 1992 survey data, the Advisory Committee examined suspension discipline meted out to students at the sampled secondary schools.

The Advisory Committee received data on 105 Michigan secondary schools. African American students matriculated at 94 of the schools. The range of total black student population was from 1 student to 1,366 students, with the average number of black students at 87. The African American percentage of the total student population at these schools ranged from less than 1 percent to 99 percent, the average being 8.6 percent.

The Advisory Committee compared white and black suspension rates at the 94 schools. The mean black student suspension rate was 17 percent, while the mean white suspension rate was approximately half that—9 percent. Examining the relationship between a school's suspension rate and the African American student population, the Advisory Committee found a positive correlation (r=0.49) between the percentage of the student population that is African American and the rate of suspensions imposed on the student body by the school. In other words, an increase in the percentage of students who are African American at a school is associated with an increase in the rate of suspensions among the student body.

The Advisory Committee was interested in determining whether there was a relationship between an increase in the rate of African American students attending a school and the rate of suspensions meted out to African American students. Specifically, the Advisory Committee surmised that there might be a student threshold, somewhere in the range between a very small African American student population rate and a very large African American student population rate, that maximized the amount of discipline imposed on African American students.

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20 Transcript, p. 480.

21 Ibid., p. 570.

TABLE 2 6
Regression Results for Minority Suspension Rates

Dependent variable is minority suspension rate

Variable	Coefficient	T-stat
Total student population	-0.33	-0.49
Student suspension rate	0.93	2.62
Black student rate	-0.05	-0.63

n = 94
R^2 = 0.08

Source: Midwestern Regional Office, USCCR.

Analysis of the 94 secondary schools shows, however, virtually no relationship between the black student population rate and the black suspension rate (r=0.09). This implies that suspensions of black students are independent of their percentage of the student population, and instead more likely a function of the individual school's discipline implementation.

To test this further, regression analysis was employed to examine the relationship of the black suspension rate at a school with the variables: total student population, school suspension rate, and black percentage of the student population. The results again show the black student percentage rate independent of the school's black suspension rate. The size of the school in terms of total enrollment is also found to be independent of the school's black suspension rate. However, the school's aggregate suspension rate is positively and significantly associated with the school's black suspension rate. The results are shown in table 2-6.

The Student Advocacy Center (Ann Arbor, Michigan) surveyed selected school districts on the number of suspensions by race and ethnicity during the 1992–93 school year. Sixteen school districts were selected, with selection based on the district's minority student population and the Center receiving complaints from parents concerning the discipline of their children by the schools. Ann Arbor and Ypsilanti were selected because they were located in the geographic area of the center, while the Monroe and Kentwood districts were surveyed because of complaints to the center. Benton Harbor, Flint, Grand Rapids, and Highland Park were chosen because of their high African American student population. Coloma, Fenville, and Holland were surveyed because of their high Hispanic student population. The Dearborn district was surveyed because of its large Arab student population. Brimley, Chippewa Hills, St. Ignace, and Sault St. Marie districts were chosen because of their American Indian student populations. The school districts and their response data are shown in table 2-7.

Nine school districts responded with suspension data. Five of the districts responded with exclusively high school data. In each of these districts, minority suspension rates were higher than nonminority suspension rates. In the two Ann Arbor high schools, minorities had a suspension rate of 11.9 percent while the suspension rate for white students was 3.0 percent. At the Kentwood and Benton Harbor high schools, suspension rates for both groups were very high and the minority suspension rate was twice that of nonminority students. At Kentwood high school, the minority suspension rate was 111.3 percent compared to a nonminority rate of 67.5 percent; at Benton Harbor, the minority suspension rate was 150.2 percent while the nonminority suspension rate was 72.9 percent. At Monroe high school the minority suspension rate was six times the nonminority rate, 48.9 percent to 8.2 percent. Suspension rates for minority and nonminority students were only similar at the two Dearborn high schools, though the rate for minorities was still higher than that of whites.

TABLE 2.7
Minority Suspension Rates for Surveyed Schools

District	Student population	White	Nonwhite	Total suspensions	Suspension rate White	Suspension rate Nonwhite
Local districts of interest to the center						
Ann Arbor (HSs)*	3,596	2,529	1,067	224	3.0	11.9
Kentwood (HS)'	1,949	1,585	364	1,486	67.5	111.3
Monroe (HS)*	1,583	1,493	90	166	8.2	48.9
Ypsilanti*	5,037	2,922	2,115	612	7.9	17.4
Districts with large African American populations						
Benton Hbr (HS)'	1,518	192	1,326	2,131	72.9	150.2
Flint	†					
Grand Rapids'	26,821	13,190	13,631	6,720	15.7	33.9
Highland Park	†					
Districts with large Hispanic populations						
Colema'	2,488	1,753	735	631	18.7	41.4
Fenville	1,569	1,120	449	•		
Holland	5,707	3,832	1,875	•		
Districts with large American Indian populations						
Brimley	560	305	255	•		
Chippewa Hills	2,386	1,915	471	•		
St. Ignace'	863	351	512	80	8.0	10.2
Sault St. Marie	3,526	2,507	1,019	•		
Districts with large Arab populations						
Dearborn (HSs)'	2,383	1,806	577	915	36.7	42.1

Source: Student Advocacy Center, Ann Arbor, MI.

Key:
"i" suspensions reported by incident
"s" suspensions reported by student
†Did not respond
*Data not provided

Personal Statements

The administration of a disciplinary action does not occur in a vacuum. Individual students, families, and the community are often intertwined in and affected by the decision. Numerous parents, students, and individuals came and testified at the factfinding meetings. They offered their perspective of events that lead to a disciplinary suspension, and the effect of that decision on themselves, the families, and the children involved.

School administrators counter, however, that suspensions and other disciplinary actions are not frivolously or thoughtlessly administered. Usually such discipline is the result of a series of behaviors, leading up to a final act that causes the suspension. Michael Foster, principal of Ypsilanti High School, expressed this sentiment:

> Suspensions are only done by administrators, not by teachers, not by other staff. So with that knowledge, our administrative team sat down and decided how we were going to best manage the climate of our school for the most effective instruction. . . . [There] are instances that we feel . . . the suspension is an appropriate alternative. Now we do not go from point A to suspension, but rather we do a process. If there is a series of misbehaviors, we deal with it at the teacher level. There is . . . a referral to the counselor, school social worker, school psychologist when those are appropriate. We then deal with parent conferences.[22]

Nine accounts of student discipline are presented to put a face on the issue of school discipline and minority students. These are prefaced by testimony from Margaret Harner, a volunteer court-appointed surrogate parent in Washtenaw County, who shared several personal episodes with the Advisory Committee. Her testimony supports reports from juvenile court representatives that school districts were delegating the education responsibilities of some of the more difficult children to the courts.

Margaret Harner, court-appointed surrogate parent:

> I have been involved in an advocacy role for 10 years. In virtually every one of my cases, suspension or other [school] exclusionary measures are part of the issue. Likewise, nearly every child whom I advocate is black, and most are male. My experience absolutely shows that we move to the suspension end of the consequence continuum with far greater speed for black children.[23]

> The first case I will tell you about is a 13-year-old African American male entering junior high school with special education certification as an emotionally impaired student. . . . Decisions had been made that his total school program would consist of 30 minutes of instruction each day at the home of a person he had been court ordered not to visit. No medical doctor had been involved in this, his due process rights had been ignored. . . .
>
> By the end of the first semester he had been out of school, he had been suspended from his regular classroom in excess of 80 days, 60 of which were out of the school building. And he was receiving no services during that 60-day period. This is not a continuing 60 days, but out for a few days and back in, or for longer periods of time and back in. Complaints were filed, conversations to remediate the situation all led to no avail. The child ended up being placed by the juvenile court out of the county, and the school contributed nothing to the cost of his education.[24]

> The second case is a 12-year-old African American male with special education certification as an emotionally impaired student. The case was assigned to me after the child was assigned to an independent study program. He was to appear at school 30 minutes on Monday, pick up his assignments for the week, go home and complete them and return them to the school on Friday. Transportation was not provided, and teacher contact during the course of the week was also not provided. After complaints and appeal, this case eventually went to mediation, and he was permitted to enroll in a school other than his home school the next school year.[25]

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22 Transcript, pp. 189 and 192.

23 Transcript p. 550.

24 Ibid., pp. 551–52.

The last case that I will give you is a 13-year-old African American, not certified for special education at the time of referral. Mom and the juvenile court caseworker had reported that several requests had been made for evaluation for special education services, and nothing had happened. . . . The child had been repeatedly suspended and both the mom and the caseworker had been told that the child was out and was not coming back, [though] no expulsion process had occurred. The child was eventually evaluated and certified for special education as an emotionally impaired student. However, he continued to be suspended, even with consequences—other than suspension—specifically spelled out in the individual education plan.[26]

Ricardo Martinez, Community Awareness and Rights in Education:[27]

The reason we started our CARE group was because we had an overabundance of incidents happen. We had over nine cases to be expelled and in all of these cases were nothing that [the parents] were able to do anything about. We had one person that we could count on [who] is on the school board, but every time this gentleman tried to do something for us, he was torn apart by either the other board members or the school administrator. It is getting to be very sickening and just incident after incident has happened.[28]

I am finding out now that there is a lot of help out here which we never knew about. We have been trying. We have had a lot of us involved in some of these incidents and found out there was nothing [we as parents] could do. Powers beyond them stopped the whole matter. . . . We are just finding out now that there are people that we go to [for help]. We never knew there were people [from whom] we could get extra help other than lawyers because that is the only thing we knew was to go out and . . . pay a lawyer to do this.[29]

Larry Scott, Parent Support Network:[30]

What is alarming to PSN is the number of school suspensions handed out by the Lansing school district, specifically the number of school suspensions administered to African American students. In the 4-year period from 1989 to 1993 the Lansing school district meted out 21,362 suspensions. Although African American students constituted only 32 to 36 percent of student enrollment. . . . almost half the suspensions were handed out to African American students.

What is even more disconcerting was that during the same period, Africar American students received more than 1 week and multiweeks of out of school suspensions than white students. In the 1992–93 school year, the number of multiweek suspensions given to African American students almost doubled the number of multiweek suspensions given to white students.

This pattern of suspensions on the African American students emerges in the elementary years. It is our opinion that during this fertile period in the student's life, personal, social, and cognitive growth must occur. Self-esteem, self-confidence, and self-control must be established if the student is to be successful. . . .[31]

Students cannot learn or achieve if they are not in school. Those students who are not suspended are affected by the apparent zero tolerance of teachers and administrators and are less likely to be enthusiastic about school activities. . . . In 1994 less than 30 percent of the African Americans in high school in the Lansing School District were able to graduate with State

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25 Ibid., p. 552.

26 Ibid., p. 553.

27 According to Martinez, CARE was founded in 1991 to address the problems parents were having with their children being suspended from school. The group operates in the Fenville school district, Allegan County.

28 Transcript, p. 212.

29 Ibid., pp. 208 and 213.

30 According to Scott, the Parent Support Network consists of concerned parents and community members committed to the development of those children in crisis and at highest risk for academic and disciplinary failure in the Lansing School District.

31 Transcript, pp. 218–19.

endorsed diplomas in three areas, math, reading, or science. . . .[32]

It is our fear that we are not graduating students who can be productive in the African American community and productive in the world community at large. We are concerned about the preponderance of disciplinary action administered to African American children. We are concerned how zero tolerance, given suspensions, and the length of the suspensions limit the student's self-esteem, precludes and blunts enthusiasm for school, leading to academic failure. We believe academic failure leads to social failure. . . .[33]

Vernadine Lake, parent of a child in the Ypsilanti schools:

My daughter has been a special education student since 1987. She has a learning disability, dyslexia, and just recently she was diagnosed with ADD, which is severe. When she went to the 9th grade she was inappropriately placed in regular education classes and she received a lot of failing grades. It was behavioral problems. We asked for meetings and we were just kind of shoved off. . . . We have gotten to a point where we think that she is getting passing grades now, but we went through a lot.

Children with special needs—minority students—are not accounted for their disability. They are placed in regular education classes, their needs are not met. . . . They document a lot of things and whatever they have documented, it is your word against theirs. And the burden of proof is on you. . . . Special education students are never believed, minority students are never believed. There is no due process for these kids, they are just suspended and they go back to school until they give up and they drop out.[34]

My daughter right now is in therapy and this hopefully—with the way she has been treated this year—can still lift her morale to keep her in school. She is 15 right now. When she turns 16, if she is not treated better, she will drop out just like thousands of other kids. They get tired of being provoked and when they talk back or speak out, they are called in for that. They are removed from the classroom or kicked out of school.[35]

And there are many, many parents that are losing their children and there is nothing you can do. You file complaints and they are dismissed. You go to meetings and you are not believed. What else can you do? You have nowhere to go, but you battle with going on with your life and living every day. Your child is going to school every day and being humiliated. They will just drop out and you have got another problem.[36]

Joyce Hartfield and LaQuan Hartfield—Joyce Hartfield is a parent of students in the East Grand Rapids school district; LaQuan is one of her children.

Joyce Hartfield:

My main concern is where is the help for the black minority in the school system? That is what I want to know. . . . All you see on the news is how the black kids are and that black parents do not care about their kids. But when you are involved in the school then you are the bad person.[37]

My kids have been through a racial period. . . . I mean they will say things to us that just like my daughter was accused of stealing some books. They took her out of class, took her to the office, questioned her about the books. She spent the whole day in the office about these books. When we go to pick her up and she tells us about the books, the principal tells us she didn't accuse her of stealing the books. . . .

I only have one kid that still is in school and that is the middle school. . . . I used to walk him to school. He didn't have to tell me the things that he went through because I went through the same thing that he went through

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32 Ibid., pp. 221–22.

33 Ibid., p. 222.

34 Ibid., pp. 279–80.

35 Ibid., p. 281.

36 Ibid., pp. 289–90.

37 Ibid., p. 300.

walking him there. They would call us monkeys, names, you know. . . . They teach their kids this way. . . . I do not want anybody calling him names.[38]

As of this day the only meeting that I had for [my son] to even get him back in school was a meeting with the principal and the superintendent of the school. When she came to the meeting she didn't even have [my son's] file so that let me know she wasn't interested in my child. How are you going to come to a meeting and [have] nothing about him and then everything that we bring up to her—telling her about—she forgot, she doesn't remember. . . . He had no problems in class whatsoever. All his problems came outside; on the way to school, home from school and during recess time. Stuff like that.[39]

LaQuan Hartfield:

I wrote a speech on racism and it was emotional. . . . I started [to have] a lot of faces made towards me from the students about that. A lot of people started making bigger and greater racist comments towards me. I was asked by one student have I ever met Kunta Kente and all this stuff; and it offended me. . . . After that incident I started getting different allegations placed against me. I got accused of stealing $15 from a student's locker in the gym area. . . . That is one of the things that goes on in the school . . . A lot of students set up other students when they are angry at them.[40]

Ann Green, parent of three teenagers in the Lansing school district:

We started a group working with young boys during the summer because I figured whatever I could do to keep him in [school] because the district as far as the suspensions, they were suspending him for things that, it was just unreal. Like a lot of it came back to authority. The teacher would say something, even if the kids responded to him, they would call it talking back and you are just responding to a question.[41]

It was one time where there was something about candy at school and that is when I filed even a civil right complaint. A young white student had candy at school and I guess she was sharing it with my son and other kids because my son rode the bus to school so he didn't have a way to get access to candy, and that is what I was asking, "How did he get the candy?" Well they suspended him and then they said, "Well we weren't discriminating, we suspended the other boy," which was another black boy, but they didn't suspend the girl who gave him the candy and she was white.[42]

There was the time [when he was in the fourth grade] . . . the teacher slapped my son and I took him out of the school district and. . . . When that happened, I took him out and I told him I wasn't going to let him back to school until I found out all of what was going on. The school told me that they put the teacher on suspension until they did an investigation. Well, I had my son out 4 weeks. . . . I kept trying to contact the district and finally . . . I found out the teacher was back in school. [The district told] me at that point that they had investigated and they just put it in the teacher's record . . . and in the same meeting they told me if I didn't put my son back in school at a set date . . . then they were going to take me to court.[43]

The only time I can remember any problem with my son and a knife at school was when he was at middle school his teacher gave him an art knife like a little gadget to do some homework with it. She wrapped it up in the paper and told him when you get on the bus, give it to the bus driver and when you get out she will give it to you to take it home. And it got back to the school the next day they had documented that he had had this knife. . . . I could go on and on. Those are just some of the issues.[44]

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38 Ibid., pp. 306–07.

39 Ibid., pp. 307 and 308.

40 Ibid., pp. 332 and 335.

41 Ibid., p. 355.

42 Ibid., p. 355.

43 Ibid., pp. 356–57.

44 Ibid., pp. 359 and 360.

Leonia McKaye, parent of a child in the Ypsilanti public schools:

I started experiencing problems with my child when he was nine in the fourth grade. They suggested to me to place him in a self-contained class because of his behavior problems. He was not on task in the regular program. So I went along with them and, from grades 4, 5, 6, and 7, I saw my son's grades go way down. He went from an A-B student to a D-C student, and his self esteem—he didn't have any of that. . . . I fought the whole fifth and sixth grade trying to keep my child in school. I almost lost my job, I am a single parent. When he was kicked out of school, I had to take off work or nobody would be at home with him. By the time he reached the seventh grade, 90 percent of the time he was at home. He did not stay in school. . . .[45]

One incident I thought was really ridiculous. He was running down the hallway. They suspended him for 3 days. And I said, "Why?" And they said because he had been so much trouble, that they don't have time to focus on my child. And I said, "Well, you were aware of the problem because you brought the problem to my attention. And you are not helping my child with the problem." Then they suggested we take him to psychiatrists and doctors, and which I have done that. But still, the school . . . was not addressing my son's needs.[46]

See, teachers talk. So they already knew what my son was about or they put a presumption on how he was going to act. So, if he went to school and had a bad day, which everybody has a bad day sometimes, it was just blown out of proportion [and he] would be kicked out of school for a week or two. And he [would] sit at home by himself because nobody would be there.[47]

In the sixth grade . . . This white kid threw a desk at my child and my child got kicked out of school. The other child did not get disciplined. Why is [my son] getting kicked out of school, he is the one that got hurt. He was the one who was kicked out of school because [the school thought] he probably provoked it.[48]

I moved out of the district and he went [to another public school system]. My son did an 85–90 degree turnaround because the teachers took an interest in him, not just okay, you get into trouble [and] we're going to kick you out of school. . . . And this year has been the most pleasant year I have had with my child.[49]

Vernita Wilson, aunt of a student in the Ypsilanti public schools:

I am here concerning my nephew. . . . [He] has been in special education most of his elementary years. The problem really began when he got into junior high where . . . he had at least 15, 16 suspensions. . . . He was suspended over 10 days a lot of the time. . . . We ended up taking him out of school in seventh grade, just keeping him at home. I had to go every Monday, pick up his homework, take him every Friday to return homework. He was losing out on his grades, and there was nobody to help him when he needed help and stuff. So he was not getting the support system, but I was trying to keep his grades up so that he could go on to the eighth grade.[50]

We changed schools. . . . It went a little better, but still suspensions went on. He is now in his sophomore year. He should be junior, but because of the suspensions and the problems that he has had, he has lost out on a lot of work. You are not able to make it all up during the suspensions. There is a limit on how much work some teachers will take and will not take. And I find when they do take it, the homework and stuff that he does, it is like now he is just being passed through the system. Academically he is not being challenged at all. It is like well, "We'll just pacify [him], keep the parents satisfied, and this and that."[51]

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45 Ibid., pp. 604–05.

46 Ibid., pp. 605–06.

47 Ibid., p. 607.

48 Ibid., p. 607–08.

49 Ibid., pp. 606-7.

50 Ibid., pp. 612–14.

51 Ibid., pp. 613–14.

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My mother and I have been looking into programs all this summer to avoid even dealing with public school. I am really discouraged. I really feel let down . . . that the school has failed in a lot of ways. But I feel that the suspension, something should be done about the suspensions in the public schools; [but] I don't know if they can even help us. I think I have lost the trust, I have lost the faith that these things will ever change and I don't have the time. I feel like I keep wasting time to find out if they will [help] because everything that we have tried—and I have gone along with the school a long way on a lot of things—nothing is working. And they want to place him back in the school next year, a system that is already failing him. Why send him back to fail again?[52]

I think it is a pattern because from other parents that I have run into, it is an ongoing problem that I see a lot of black parents have, but it is only with the black male. I don't see it so much with the black female. It's a problem that I see that is not being addressed with the black male. It is no tolerance. No, it is really a nonchalant attitude. This is almost expected. . . . and then he has lost so much trust in the school system that his trust is gone. He distrusts the teacher. He thinks everybody is against [him]. It is hard for him to succeed now when you don't trust everybody in your surroundings.[53]

Sharon Baskerville, principal of a middle school in Ann Arbor:

It is not by accident or not by surprise that there is an attitude and an air of frustration at this table and also in this room and in many communities around the country. People are frustrated. . . . When parents and students come to me because they are frustrated, I try to create an environment in my building where we can at least have a meaningful dialogue. I think that is the key. You cannot resolve any problems until you are able to get people to sit down and open up and talk. But they won't do that if there is not that degree of trust.[54]

I think what is missing in a lot of cases [is students] don't get the opportunities . . . to tell their side of the story. By the time the parents come in, they too have heard another version. You get both sides of a table full of parents and students, and you have a very, very enlightening dialogue taking place because parents are looking at their students through new eyes and those students are looking at their parents through new eyes because they are trying to figure out what that parent is going to say when they get out of that room.[55]

Ann Arbor public schools just revised its rights and responsibilities handbook last year, July of 1993. . . . But the reality is working through it and finding out if it really meets the needs of the kids. I think if you look at each one of the uniform code of conduct districts, you will find that some of the issues are so minuscule that they should not get the types of punishments that they get.[56]

In my particular district, in my school, we have student study teams where we literally put teachers and parents and counselors and social workers and principals and custodians and anybody else who has any knowledge about that youngster together, and we sit down and talk about the strengths and what kind of support system they can have and use. Any time you have an individualized behavior plan for at risk students, you are looking ahead and trying to come up with ways to keep that youngster from falling between the cracks.[57]

Sensitivity training is a must because we have too many people who are just about the business of doing business; they are not necessarily focusing in on the human aspect of the people or the clients they are serving. My philosophy in my building is to create an environment that is success oriented and focusing on success and not so much on discipline for kids, because when they are successful they don't have time to get into trouble. And if the channels of communication are open, they will let you know before trouble strikes that

52 Ibid., p. 615.

53 Ibid., p. 618.

54 Ibid., p. 623.

55 Ibid., p. 624.

56 Ibid., p. 624–25.

57 Ibid., p. 625.

something is looming and therefore you can continue on the success oriented path.[58]

Leadership is also a vital link to the success of all students. If the leaders do not set the tone for what needs to be done, it does not seem to get filtered down to everyone else. . . . And finally, trust and support for students and families is another vital link. If families and students do not feel that they are supported or that you trust them, they will not come to your office, they will not call you on the phone, they will not seek your advice, they will not include you in their inner circle.[59]

I think the battle is lost because too many people are excluded, and the kids are getting stronger and the adults are still scratching their heads trying to figure out what to do.[60]

Jeanetta Jennings, parent of a student in Westwood school district:

There were some girls who got together and decided to bring a gun to school to fight after school. My daughter was aware of the gun being brought to school because they were all sharing about it in the bathroom and bragging about it. These are not girls that were friends of my daughters, they are just acquaintances because she is there at school with them. . . . She never saw the gun, never was around the gun, anything like that.

Later on in the day . . . they decided to conceal the gun in a purse. The assistant principal was aware of it at this time, and came into the classroom where all the girls were together. The girl who had the purse saw the assistant principal coming and asked my daughter to hold the purse . . . without my daughter's knowledge that the gun was inside the purse.[61]

When [the assistant principal] asked my daughter, "May I look inside your purse?" She said, "Yes." They both looked in together and they realized that there was a gun inside. . . . My daughter was arrested [and] charged with CCW. She spent the night in the juvenile system. . . . I was not contacted or notified until well after she had been arrested, fingerprinted, read her rights.[62]

I moved out of the Westwood school district in January of this year . . . I enrolled her into the Wayne Westland High School where I now live . . . She attended from March until May. The school records went over to [the new school]. They called my daughter into the principal's office. I was not called. The questioned her about the incident at [her previous school]. They took her books, they stripped her of her books and sent her home with a suspension. They sent me a notice in the mail.

I got an opportunity to come in to speak with the principal . . . At that time they told me that they just put in a new policy. That policy stated that if there was an act committed by a student while off the school grounds or while enrolled in another school that would permit them to expel that student [if the student] committed this act while on school grounds. . . . They accused me of enrolling my daughter with the knowledge of her being expelled. She was ultimately expelled from [her former school but] I opted not to attend those hearings because she was already enrolled in the Wayne Westland school.

My daughter is the first to be excluded under this new policy. . . . We went through with the hearings. We appealed to the school board. My daughter gave testimony of how she did not know the gun was in the purse. They ultimately permanently expelled my daughter and said that she was a danger to herself, the other students, and the faculty members. They offered no alternative schooling, no sympathy. They told me that when I came into the meeting, they gave me two options: to permanently or to voluntarily withdraw her or to go through with the proceedings for a permanent expulsion.[63]

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58 Ibid., pp. 626–27.

59 Ibid., pp. 627–28.

60 Ibid., p. 628.

61 Ibid., p. 630.

62 Ibid., p. 631.

63 Ibid., pp. 633–34.

She sat out school the month of May and the month of June and she has nowhere to go in September. They told me that I could put her in private school. I am a divorced mother of four children. That is just not an option for me. I have been in contact with the . . . board of education, the student advocacy center, the Wayne County Educational Resource Center. No one has answers. She is just 12 years old.[64]

64 Ibid., p. 634.

Chapter 3

School Discipline and the Community: Local School Districts, the Judicial System, and Community Programs

School discipline in Michigan is ultimately a local issue. Local school districts have the authority and responsibility to establish and implement their code of student conduct and the penalties for noncompliance. Robert Schiller explained:

> I need to reiterate the fact that in our State, local school districts have the responsibility for establishing the policies of discipline as it affects their students. We, as the State of Michigan, unlike other States in the Nation, do not have a statewide policy, statewide procedure, statewide disciplinary code to affect all schools. The 560 school districts and 3,500 schools have the direct responsibility to establish their individual student discipline policies as it affects the carrying out of expectations for students and the punishment therein.[1]

Recommendations from two local school districts, Lansing and Ypsilanti, made presentations on school discipline. They discussed the amount and types of discipline, its administration and purpose, and the problems of discipline. The Advisory Committee heard from administrators, principals, and teachers.[2] In addition, the county judge of the juvenile court in Washtenaw County and probation officers and truant officers from the county testified at the factfinding meeting.[3] They discussed the impact of school discipline on the judicial system and the effectiveness of the judicial system in handling students with discipline problems.

Representatives from several alternative education programs in the Lansing and Ypsilanti areas also made presentations. The Black Child and Family Institute in Lansing accepts students from the Lansing public schools into its program. The Center of Occupational and Personalized Education (COPE), an alternative education program operating in Washtenaw County, that serves young people referred from the juvenile court, the public schools, and the county department of social services.

The Lansing Public School District

The Lansing school district has 33 elementary schools grades K-5, 4 middle schools grades 6-8, and 4 high schools grades 9-12. It also provides several special facilities and programs, such as adult education, special education programs, community education, public safety, and an environment center. Nearly 11,000 students are in the elementary schools, and more than 9,000 students are in the middle and high schools. The alternative programs have 90 students, the Beekman Center has 147 students, and there are 1,371 students in the adult education program.[4]

Minorities are half the student enrollment in the Lansing schools. There are 10,713 elementary students, 122 American Indian, 3,307 African

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1 Testimony before the Michigan Advisory Committee to the U.S. Commission on Civil Rights, factfinding meeting, Lansing, MI, Aug. 3, 1994, and Ann Arbor, MI, Aug. 4, 1994, transcript p. 11 (hereafter cited as Transcript).

2 The local school districts of Lansing and Ypsilanti were invited because of their size, diverse student population, location, and urban setting. The Committee's invitation to the two school districts should not be construed as an implication that discipline problems or the administration of discipline is atypical or different from other similarly situated districts.

3 Ypsilanti is in Washtenaw County, Michigan.

4 Lansing School District, 1993–94 Fact Book.

TABLE 3-1
Student Race/Ethnicity, Lansing Public Schools

	American Indian	Black	Asian	Hispanic	White
Elementary	122	3,307	525	1,299	5460
Middle schools					
Gardner	18	385	20	115	702
Otto	22	293	74	168	549
Pattengil	15	294	53	144	544
Rich	8	562	42	76	526
Total	63	1,534	189	503	2,321
High schools					
Eastern	36	297	104	291	890
Everett	18	522	85	164	925
Sexton	12	662	54	104	633
Total:	66	1,481	243	559	2,448
Alt. Ed.	0	26	0	5	14

Source: Midwestern Regional Office, USCCR, from Lansing School Data.

American, 525 Asian, 1,299 Hispanic, and 5,460 white. The four middle schools have an enrollment of 4,610 students, 63 American Indian, 1,534 African American, 189 Asian, 503 Hispanic, and 2,321 white. The three high schools have 4,797 students, including 66 American Indian, 1,481 African American, 243 Asian, 559 Hispanic, and 2,448 white. The secondary alternative education program has 45 students, 30 males and 15 females; 26 are African American, 5 are Hispanic, and 14 are white.[5]

The Lansing Board of Education has adopted a code of conduct to define appropriate behavior in the Lansing schools and on district school property. The code's primary purpose is to provide the standards and structure necessary to foster a safe educational environment in which students can mentally, physically, emotionally, and socially mature. School district employees enact provisions of the code to protect the persons and property for which they are responsible. Spanking and all other forms of corporal punishment are prohibited. The code gives to all school district employees the right to sign a police complaint for any violation of their personal or property rights which occur while administering the code.[6]

The code is a comprehensive 16-page document that explains the school rules, implementation of the code of conduct, appeal procedures, locker searches, student distribution of printed materials, student eligibility for participation in cocurricular activities, and bus conduct. There are two categories of violations: rule violations and severe rule violations. An appendix to the code defines and gives examples of both types of violations.

Examples of rule violations are: abusive language; disorderly conduct; disrespect for safety patrols; failure to identify oneself to staff; forgery; insubordination; littering; petty theft; possession

5 Lansing School District, Ethnic Report, Oct. 1, 1993.

6 Lansing School District, Code of Conduct, introduction.

of games or toys; possession of beepers, pocket pagers, or electronic communication equipment; tardiness; truancy; and loitering. Examples of severe rule violations are: arson; assault and/or threats; battery; extortion; false alarms; fighting; major theft; malicious destruction; molesting; obscene and/or lewd behavior; persistent misbehavior; possession and/or use of an imitation toy gun or a facsimile/replica of a firearm; sale, possession, and/or use of weapons or incendiary devices; sale, use possession, or distribution of legal or illegal drugs, materials, substances, or alcoholic beverages; and violations of city, State, or Federal legislation.[7]

According to the code, there are student consequences for disruptive behavior, and students who will not conform to school rules will be subject to a series of options intended to correct the problem. The home school is responsible for disciplining students who violate school rules. To prevent problems from escalating, schools are encouraged to initiate a parent conference when problems arise and develop a written plan to resolve the problem.

If the student violates the written plan, the teacher and/or principal, in consultation with the parent, will take further corrective action. Such other corrective actions include:

- removal of the student from the classroom,
- detention,
- in-school suspension,
- community service,
- building alternative program,
- restitution of property,
- building suspension,
- suspension to student services, and
- referral to the district's public safety department and/or the appropriate law enforcement agency.[8]

The code of conduct allows for student expulsions. Specifically, any student in possession of a gun or other dangerous weapon as defined by State law on school district property is subject to long-term suspension and to possible expulsion and prosecution. In addition, any student in possession of a facsimile or replica of a firearm on school district property is suspended and may be expelled and subjected to prosecution.[9]

The Lansing school district publishes, for the public record, a suspension report. The report by ethnicity and race lists: (1) the incidents of suspension by length, (2) incidents of suspension by reason, (3) referrals to student services, and (4) comparison and number of incidents of suspensions and number of students suspended by individual school. Parts (1), (2), and (3) of the 1992–1993 school year report are in appendix III.

In the Lansing school district for the 1992–93 school year, there were 4,434 student suspension incidents. It is understood that many of these incidents may involve the same individual student. Of the total number of suspensions, African American students, who are 31.5 percent of the student enrollment, received the highest number of suspensions, 2,073, and had the highest group proportion of all suspensions, 46.8 percent. Whites, who are 50.8 percent of the student population, were the next highest suspended group, receiving 1,671 suspensions, 37.7 percent of the total (see table 3-2).

The proportion of suspensions given to Hispanic students, 12.5 percent, was slightly higher than the group's proportion of the student population, 11.7 percent. The total rate of suspension incidents involving American Indian students, 2.3 percent, was double their enrollment rate of 1.2 percent. Asian student suspension incidents were lower than their student enrollment rate (see table 3-3).

Richard J. Halik, superintendent of the Lansing public schools, discussed the issue of discipline in the Lansing school district. He was joined by three school principals from the Lansing district: Saturnino Rodriguez, principal of Pattengill

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7 Lansing School District, Code of Conduct, appendix.

8 Lansing School District, Code of Conduct, Implementing the Code.

9 Ibid.

TABLE 3.2
Suspension Incident Rate and Student Enrollment Rate for the Lansing School District

Race/ethnicity	Suspension incident rate	Enrollment rate
American Indian	2.3%	1.2%
African American	46.8	31.5
Asian/Pacific Islander	0.8	4.7
Hispanic	12.5	11.7
White	37.7	50.8

Source: Midwestern Regional Office, USCCR, from Lansing school district data.

TABLE 3.3
Student Suspension Rate and Student Enrollment Rate for the Lansing School District

Race/ethnicity	Suspension incident rate	Enrollment rate
American Indian	2.0%	1.2%
African American	43.9	31.5
Asian/Pacific Islander	1.2	4.7
Hispanic	14.1	11.7
White	38.8	50.8

Source: Midwestern Regional Office, USCCR, from Lansing school district data.

Middle School; Ann Blair, principal of Gardner Middle School; and Michael Foster, principal of Rich Middle School. Patricia Farrell, director of Lansing school student services, also testified.

Halik talked about the district's code of conduct and its purpose. He also addressed the total number of suspensions, noting that they have gone down in recent years and that the number of suspensions is an item that he closely monitors.

> We had a very extensive group that looked at our discipline code and how we can make it more positive, how we can do it in a way that would result in fewer suspensions of our students from the Lansing schools [because] we cannot teach them if they are out running on the streets and not in our classrooms.[10]

> I wanted to mention [that] in 1989–90 we [had] incidents of 6,603 suspensions in the Lansing school district for whatever category. That has changed through last year with 4,434 [suspensions]. The numbers are going down considerably. I look at that specifically as a superintendent, those figures come to me. . . . I send a little communication for those [schools] that look out of line and ask them why so many youngsters were being suspended from their buildings, because I want them to be aware that the superintendent actually looks at this data.[11]

10 Transcript, p. 172.

11 Ibid., p. 173.

Patricia Farrell discussed the district's discipline report. She noted that the report had become quite extensive due to requests from individual groups for additional data. This has resulted in the current report which breaks down suspensions not only by racial and ethnic categories, but also by gender. In addition, there is a delineation by number of incidents, number of students, and school. Farrell explained:

> Not only do we do a districtwide comparison of the numbers of students we have suspended by individual offenses—and the offenses are extensive—they are broken down by gender as well as racial ethnic categories, but we also do it by school. I really want to pinpoint this aspect because we asked our principals to come here and show you how they would use this data then in programming for themselves in their building.[12]

Using the number of students involved in suspension incidents provided by Farrell, 2,503 students received a suspension. Of the total number of suspensions, 1,099 (43.9 percent) were African American students, who are 31.5 percent of the student enrollment. White students, who are 50.8 percent of the student population, received 972 (38.8 percent) suspensions.

The number of Hispanic students suspended was 354 (14.1 percent), which is higher than their 11.9 percent enrollment rate. American Indian and Asian students received 49 (2 percent) and 29 (1.2 percent) suspensions respectively. Asian students received proportionately fewer suspensions than their student enrollment rate, while American Indian students received suspensions at a rate higher than their proportion of the student population.

According to school officials, the Lansing district is not pleased with the number of suspensions it has. It is committed to decreasing the number of these type of disciplines. The district has stepped up prevention programs in the elementary grades, to give the students a good base before they get to the middle school or high school level. It has buttressed these activities with additional programs in the middle schools.

The middle school principals described a number of ongoing programs designed to reduce student suspension rates. All three principals speaking to the Advisory Committee noted a decrease in suspensions as a result of an active program to intervene and prevent student misconduct. Programs and activities in the three schools were similar in some respects, and unique to the individual school in other respects.

Saturnino Rodriguez described his school's disciplinary advisory group, flexible school schedules, and student teams. He reported that subsequent to these initiatives, there were 140 fewer suspensions in his school.

> Every morning, every 20 students on discipline, will [be under] the advisory of one teacher for 20 minutes. . . . This teacher is there with the students to welcome them, to talk with them, to find out what kind of problems they are having. This advisory program was the creation of the community, and the parents feel it is a good program. Definitely every child wants somebody in the school to take care of him, help him, and we do that.
>
> The other thing we did was a flexible schedule. Students do not follow the same schedule every day or every week, and they are divided into teams. Every team has their own schedule. The school is run by teams and the decisions that the teachers and the teams are making. Special education students are included. This changed completely the climate of the school. . . . What happened is that we went down in suspensions by more than 140.[13]

Ann Blair talked about her school getting actively involved with the community, implementing peer mediation, and staff training. These efforts reduced the number of suspensions at the school by 100.

> As in any organization, dealing with people makes conflict, and a lot of our suspensions result from [students] not getting along with their peers, we wanted a

12 Ibid., p. 175.

13 Ibid., pp. 180–81.

proactive stance. We [decided] to start a peer mediation conflict resolution program. In January we trained 33 youngsters in how to resolve conflict peacefully. We had an advisory committee made up of parents, students, and community in order to make this effort not just an isolated school [effort]. . . .

And what we do, we make this available to youngsters. They can sign up in each office. If they have a conflict with another youngster, instead of fighting and leading to a suspension, they can sign up to have one of their peers, with the supervision of an adult who has also been trained, to mediate and try to come to some resolution themselves. In conjunction with that I did some training with the whole staff. During the year I had two assemblies; one . . . dealt with people, conflict resolution. And I also had another assembly [about] again making those decisions, not taking the low road. . . . We too reduced our suspension rates by about 100 youngsters.[14]

Michael Foster said that his school had voluntarily expanded its role in ensuring student safety, limited suspensions to just three violations, developed strategies to anticipate misconduct and intervene, utilized more in-school suspension, and worked regularly with the parents. The result of these efforts was a reduction in the number of suspensions by 176.

One of the common concepts among children of middle school is that school is a safe haven for many kids. . . . We extended that safe haven concept from the grounds of the school out into the community when students are traveling between home and school or school and home. What we have done in fact is enlarge our own job.[15]

We determined that we would suspend primarily for three things and three things only. We communicated that clearly to all students at the beginning of the school year. Here are the three things: fighting or violent behavior . . . , violation of city, State, or Federal law . . . , and insubordination or refusal to cooperate with a teacher or staff member.[16]

We anticipate situations where misconduct might occur in an attempt to manage that situation so as to prevent it. Appropriate staff and supervision of dances, of lunchroom activities, of loading and unloading of buses.[17]

We utilize an in-school suspension room, supervised by a teacher and a full-time instructional assistant for those smaller infractions that do not warrant out of school suspension. . . . .We work regularly with parents to develop plans for conduct [and] have parents in the building helping us supervise.[18]

While we have enlarged our job, we were able to reduce suspensions from last year to this year by 176. That balances out across the board ethnicly, an equal distribution of reduction this year.[19]

Several speakers alleged that the Lansing school district, not unlike other racially mixed school districts, has racial problems. Wilson Caldwell, president of the Lansing branch of the NAACP, said that the number of minority students in the district has increased, reaching 50 percent in recent years. As this has occurred, he felt that some in the community have assumed there would be more problems in the schools.

The composition of the Lansing school board for a long time . . . has kind of created this atmosphere . . . that there are problems within the Lansing school district because there are so many minority children in the school, and because they do not fit into this middle class idea.[20]

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14 Ibid., pp. 185–87, 188.

15 Ibid., p. 190.

16 Ibid., p. 191.

17 Ibid., p. 193.

18 Ibid., p. 194.

19 Ibid., p. 190.

20 Ibid., p. 243.

Michael Boles, first vice president and education chair of the Lansing branch of the NAACP, acknowledged that there have been improvements in the Lansing school district regarding disproportionate discipline of African American students. Still though, he presented statements from black males, who felt they are perceived as problems in the school. In a written response to a committee inquiry on school treatment of black males, he wrote:

> Please find the enclosed comments from [African American] students during mentoring sessions:
> –often labeled as trouble-makers or discipline problems;
> –disproportionately represented in student suspensions and low ability groups;
> –emphasis often placed on behavior rather than academic performance;
> –below average achievement scores;
> –low teacher expectations.[21]

John Pollard, executive director for the Black Child and Family Institute, also felt that many black middle and high school students were unfairly labeled as disruptive and were not regarded as serious, capable students.[22] Moreover, Pollard passionately testified that many suspended children act out to mask the fact that they are uneducated. He expressed the concern that many of these neglected children will become predators on society, and argued that they are reachable. He is also concerned because he is seeing a younger clientele in recent years, and that many African American children neglected by the schools will become socialized not by teachers, but instead by gangs creating further mayhem in our cities.

> There are some administrators, some of whom are African American, who will tell you that children across the board seem to be more violent than they were before. There are some who feel that maybe there is institutionalized racism at work.
>
> I can only tell you that in the suspension alternative program, what I am beginning to find is that many of these children are acting out, so to speak, not because I consider them bad children, but because what they really are doing is masking the fact that they are uneducated. They cannot read, they cannot compute, and they would rather be known as the class cutup, clown, suspended kid, than being the idiot in every classroom that they sit in. And so rather than admit to . . . reading at a third grade reading level, which I have found some of them do, they will pretend to be gangsters and cutups and I think it is a masking of their self-esteem.[23]
>
> In terms of the trends I see going on, I am getting younger children. They used to be predominantly high school students. I am finding more sixth, seventh, eighth graders. They are being sent to me for the same kind of fighting. You have to understand in [the Lansing] school district if I start a fight with Mr. Caldwell and Mr. Caldwell defends himself, both of us are gone.[24]
>
> There is a phenomenon that goes on in the district that is called half days. Students who are 11, 12, 13 years old are put on something called half days. Half day is from 8:00 to 10:00 in the morning or 3:00 to 5:00 in the afternoon. . . . I am not sure if they are included in the statistics I have and that the district has shared with you. . . . Where are these children? They seem to be the cannon fodder and the source of most of the gangs.[25]

The Ypsilanti Public School District

The school district of Ypsilanti serves 4,853 students from preschool through 12th grade. In

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21 Michael Boles letter to Constance Davis, Aug. 12, 1994, Midwestern Regional Office, USCCR, files.

22 The Black Child & Family Institute is a private nonprofit organization that rents its facility from the Lansing school district and, in turn, provides educational programs including adult education, after-school tutoring, and a suspension alternative program.

23 Transcript, pp. 250–51.

24 Ibid., pp. 252–53. The fictional reference to a "Mr. Caldwell" was used because the speaker appeared before the Committee on the same panel as Mr. Caldwell of the NAACP.

25 Ibid., p. 260.

TABLE 3.4
Racial Composition of Ypsilanti Public Schools

	White	Black	Other
Total	56.5%	40.2%	3.3%
West middle school	50.9	45.6	3.5
East middle school	61.9	36.3	1.8
High school	58.0	39.0	3.0

Source: Midwestern Regional Office, USCCR, from Ypsilanti school district data.

addition, it provides instruction to 351 adult education full time equivalents in the high school completion GED, adult basic education, English as a second language, and education designed for gainful employment (EDGE) programs. There are 13 buildings within the district, including: one kindergarten, six elementary schools grades 1–5, two middle schools grades 6–8, one high school grades 9–12, the Kingston Special Education Center program, the regional career technical center, and the adult and community education building.

For the 1993–94 school year, 56.5 percent of the student population was white, 40.2 percent was African American, and 3.3 percent was of another race/ethnicity. In terms of the auxiliary program populations during the 1993–94 school year, 34 percent of students received a free/reduced lunch, 12 percent were enrolled in special education classes, 19 percent of the student population received compensatory education classes, and 1 percent of all students were in ESL/bilingual classes.[26]

In the 1993–94 school year, East Middle School had 480 students; 61.9 percent being white, 36.3 percent African American, and 1.8 percent of other races and ethnic groups.[27] West Middle School had 544 students; 50.9 percent white, 45.6 percent African American, and 3.5 percent of other races and ethnic groups.[28] Ypsilanti High School had an enrollment of 1,191 students; 58 percent white, 39 percent African American, and 3 percent being of other races and ethnic groups.[29]

The Ypsilanti school district has a written policy on school discipline. As a general policy in the Ypsilanti public schools, a student is always afforded an opportunity to state his or her understanding of the alleged misbehavior prior to the imposition of any disciplinary action. In those cases where the continued presence of the student is a danger to person or property or is disruptive to the school program, the student may be immediately suspended and removed from the site.

As a general policy, the school district follows the following due process procedures. First, the student is informed of the allegation within a timely period. Second, the principal will schedule and conduct a factfinding conference as soon after the alleged incident as possible, but no later than 3 school days, and the student will be given the opportunity to present his or her defense, witnesses, and evidence. A written summary of the factfinding conference will be made. Third, the principal or designated person will make a reasonable effort to verify and evaluate fairly the evidence. Fourth, if the principal finds that recommendation for suspension in order, the principal will inform the student and his or her parents/guardians by telephone, if possible, and

26 Ypsilanti school district, District Description.

27 Ypsilanti school district, West Middle School Building Profile.

28 Ypsilanti school district, East Middle School Building Profile.

29 Ypsilanti school district, Ypsilanti High School Building Profile.

send a written communication of the decision and their right to appear. Suspensions exceeding 10 days require assistant superintendent review and approval.[30]

There are major and minor offenses that may result in a student being suspended. Minor offenses may be penalized with up to a 3-day suspension for a first offense and include: instigating leading to an argument or fight, insubordination, profanity, loitering, skipping/truancy, gambling, anonymity, parking, violation of tardy policy, forgery/cheating/petty theft, slander/ degrading epithet, disruptive behavior, minor vandalism, smoking, threats of harm. Major offenses may result in a 10-day suspension for a first offense and include: destruction of property, fighting, arson, theft, false reports, other illegal acts, extortion, assault and battery, motor vehicle violation, possession of explosives, possession of weapons, witnessed use or possession of alcohol and/or other drugs, witnessed selling/providing alcohol and/or drugs, look alikes, or paraphernalia.[31]

The district has been recording suspension data by race and ethnicity since 1988 and has released a public report of the number and type of suspensions. Historically, the community has been very involved in school issues. The issue of school discipline has received attention from the community in recent years, and the public release of the suspension reports has played a part in that discussion.

In March 1991, John Rohde, trustee of the Ypsilanti school district, sent a memorandum to then superintendent, Ralph Grimes, expressing his alarm over the number of suspensions being meted out in the school district, and the disproportionate impact of those suspensions on African American students. The memorandum was prompted by his review of the suspension report. In that memorandum, Rohde wrote:

> When I look at the multiple suspensions, I am alarmed at those students who have received 4 or more suspensions (23 students) and I am upset to see students receiving 9–15 suspensions. I wonder how many days the student who was suspended 15 times was out of the classroom and building. Could it have been as many as 150 days? (15 X 10-day suspensions)
>
> . . . I continue to believe that statistics that show that Black students represent 60% of those suspended (while they make up 39% of the District) shows a racial bias against Black students. Regardless of home life and neighborhood realities, I believe that it is possible for the school system to deal fairly and equitably with students and bring forth positive, cooperative behavior from them.
>
> I continue to believe that the way we are dealing with Black students in the classroom has a lot to do with the fact that our suspension rate starts to climb at 4th grade level and then decline in high school. By high school, they can drop out. If the State ever changes the law to require compulsory school attendance until 18 or graduation, we will see the high school suspensions increase.
>
> I believe that we need some form of assessment of our racial equity as a district.[32]

In the 1992–93 school year, there were 612 students who received one or more suspensions. Of these, 152 were elementary school students, 226 were in middle school, and 234 were high school students. Similar to the statistics cited 3 years earlier in Rohde's memorandum, 60 percent of the suspended students in the 1992–93 school year were African American. White students received 38 percent of the suspensions, while students of other races and minority ethnic groups accounted for 2 percent of the suspensions.

Marilyn Goodsman, a member of the Ypsilanti board of education, said that in the past year the board directed the school administration to include in the discipline report, the schools' efforts to prevent suspensions and dropouts.

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30 Ypsilanti school district, Student Handbook, p. 18.

31 Ibid., pp. 14–17.

32 John Rohde memorandum to Ralph Grimes, superintendent, Ypsilanti Public Schools, Mar. 15, 1991, Midwestern Regional Office, USCCR, files.

TABLE 3.5
Comparison of Ypsilanti School Population with Suspension Population

	Suspension rate	Population rate
White	37.9%	56.5%
African American	60.3	40.2
Other	1.8	3.3

Source: Midwestern Regional Office, USCCR, from Ypsilanti school district data.

The past year the board of education directed the [school] administration not just to present this [discipline] report to us, but rather to give it some substantiation in terms of what is being done to help students so that we can prevent suspensions [and] prevent dropouts from occurring with the school system. We have very innovative employees in our school district and innovative administrators, and we have set them to the task of sharing with one another what has been successful. We have had very many successful kinds of things happening in our school district, and we want to build on those kinds of things.[33]

Duke Williams, executive director of human resources for the Ypsilanti public schools, discussed the issue of discipline in the Ypsilanti school district. He was joined by John Fulton, principal of Ypsilanti High School; Tilani Smith-Sambe, principal of one of the elementary schools; and Bill Snyder, principal of East Middle School. In addition, Herman Humes, Mary Gibson, and Dave Johnson, teachers with the Ypsilanti Education Association, testified at the factfinding meeting.

Williams spoke about the efforts of the district to be fair to all racial groups, while maintaining a uniform code of conduct that promoted a learning environment in the schools. He acknowledged that African American students are disciplined in disproportionate numbers in the district, but stated that this is more a reflection of society rather than a prejudicial pattern by the district.

The Ypsilanti public schools operate under a uniform code of student conduct, and it is our belief that we administer that evenly. It is to our board of education's credit that the expulsion rate at the Ypsilanti schools is extremely low. In very rough numbers, maybe five children in the last 8 years.

In my 20 months in the district, the expulsions that have occurred have also been followed with alternative educational opportunities for students who were removed from the K–12 setting. We feel the statistics that we keep reflect that in the case of our school district, African American students are suspended at a higher rate than caucasian [students]. And we work diligently to solve that.

We feel the public schools reflect society's issues. And we believe that is what we are dealing with. We have a charge to maintain a conducive, safe, orderly educational environment so that we can carry out our basic mission. And that basic mission is in constant competition with the other special programs that are needed for the various students who are suspended at a higher rate.[34]

Williams also clarified distinctions between out-of-school suspensions and in-school suspensions.

33 Transcript, p. 424.

34 Ibid., p. 401.

In our district an in-school suspension is simply that. You have a student who has broken or exhibited behavior that is contrary to the uniform student code of student conduct, and they are removed from their classroom. At the upper level classrooms, as they have several teachers, [they] are placed in a separate room within the building and in general provided the work from either their class or various subjects and a person is there to assist them with it. But they are removed from their peers, their regular class. That would be an in-school suspension. Out-of-school suspension, you are simply sent home. Your parents are notified or your guardian, and that can range anywhere from half a day to 10 days.[35]

Fulton, the high school principal, described administration of the code of conduct in his building and his philosophy of discipline. He also discussed problems and successes of discipline implementation.

Every situation is different, but wherever there is a situation where a student needs to be suspended we follow the code of conduct. We try to use alternatives prior to suspension, first whether it be a parent conference, whether it be keeping the students after school. . . . If we can come up with some alternative rather than suspend the student, we try to do that.

The main suspensions out of school usually pertain to students who are involved in fighting or create risks for other students in the building. That is a reason to suspend them or as a measure that if you break these rules, these are the consequences.

We tried an alternative program in the high school setting years ago, in-house suspension. Unfortunately we have had to discontinue that particular program because of funding. It took a person to watch those kids during the day, and it takes a special teacher. One does not just take a regular teacher [for this assignment], because now you are dealing with a room of maybe 10 or 15 students who are . . . all problems.

But even with that program we did not see a real success. The real success that we have seen in the last few years has been communication with parents [of] our policies that call for suspension. . . . The real key is to have the parents come in and deal with them rather than to have the kid out of school. . . . And that accomplishes probably more than anything, and the students are more afraid of having that happen than the 10-day suspension. If the parents can come in, you can usually solve the problem.[36]

Snyder, principal of East Middle School in Ypsilanti, discussed his building's attempts at proactive discipline and parental involvement.

We attempt, at East Middle School, to be proactive in terms of managing student behavior. Our goal is to not have any students suspended and to have everybody in class all the time, learning and successful. When a student . . . is disruptive . . . our first goal is to have the teacher be able to manage it within the classroom so that one, the youngster is not removed from class and is not removed from the learning situation. When a situation exists where the learning is disrupted . . . to the extent the teacher cannot manage it, . . . it comes to the principal.

What we try to do is to modify behavior, not punish people because most kids come to school really not wanting to get in trouble. Most kids want to do right and want to learn and want to succeed. But a lot of times they come to school without the skills to help them succeed. . . . They come out of an awful lot of pressure from all the communities we service. . . . There are some terrible problems that kids face on the weekends, at home in the evenings, and they bring them all to school the next day.

We have an inadequate counseling situation, as all schools do today, to help manage these problems, to help hold kids hands and talk them through these things, or get to the point of being able to internally handle these situations. And a lot of times they erupt.

So when we have to send a student home on a suspension, our first goal is to make it as short as possible; second, to involve the parents; and third, to make sure that when the student comes back to school, whether it is the next morning with a parent . . . or whether it is for a longer period of time, . . . we have a parent involved.[37]

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35 Ibid., p. 403–04.

36 Ibid., pp. 414–15.

Smith-Sambe, an elementary school principal in Ypsilanti, repeated that her school tries to avoid using suspension as a discipline, but she admitted that minority students appear to be disciplined more often. She stressed that with multiracial and multiethnic student populations there is a need for teachers to learn more about diversity so that discipline would be more effective and more fair.

> There have been in-services for teachers on acceptance of cultural differences . . . so that if we are really dealing with issues where minority children feel excluded from the process. They therefore choose to act out. We really [need to] address that exclusion [and] those feelings of exclusion. I think that this is a very key issue that we do need to talk about, and remember that [it is] in the classroom setting where a lot of this begins.
>
> The more that we can make our teachers aware of the problems that the kids bring [and] the more in-services and the more support we can give our educators, the less you will see this [exclusion] reflected because the kids will feel good about being there. They will want to be in that classroom, they will be learning.
>
> We have done things with at-risk children at my schoolafter school clubs and different things like that. We have found that the opportunity centers and the after school clubs we have provided have lessened the number of suspensions.[38]

Several teachers from the Ypsilanti school district testified about discipline in general and the educational experiences of minority youth in particular. Some educators indicated that the enforced culture of conduct at a school created a culture of conflict with some minority students.

Humes said:

> I have been working with students for 20 years. One of my main concerns has been that there are groups of students who are not treated as individuals. A couple of years ago [we had] a focus group of African American males. . . . There seemed to be a consensus that there was a real lack of respect that was given them, a real lack of effort put forth to understand who they are, and just a basic, overall feeling of we are a nonentity.[39]
>
> The school system is a component of the system at large. . . . One of the things I advocate . . . is that one of the things that we have not done very effectively is we have not indicated to either the child or the parents that there are two systems. There is the white middle class standard that is the school system . . . and then there is my neighborhood [culture]. . . . And what I am saying is a person walks into a room, an African American male, and what he feels or what he believes is that he is negated, neglected, not given appropriate consideration because he is black. It has nothing to do with whether he is intelligent, . . . whether he is from a rich family [or a] poor family. It is just that he is black.[40]

Gibson, a social worker in the Ypsilanti public schools, said the issues of disproportionate discipline are multifaced, arguing that "it is race, it is socioeconomic status, it is values, educational opportunities, expectations, [and] environment."[41] She noted that some students get the feeling of being failures from home, so they never get a sense of being accepted or belonging, and this is why some of them act out.

Johnson, a middle school teacher, added to this thought, saying that without parental involvement, an inflexible code of conduct often falls more severely on those children without parental support. He also thought that some discipline problems are the result of students being unable to perform academically.

> The problem I see at the middle school is that we try and get the parents in the meeting when a child is suspended. . . . We have many parents who will not bother to come back to school the next day and their

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37 Ibid., pp. 416–17.

38 Ibid., p. 422.

39 Ibid., p. 438.

40 Ibid., pp. 440–41.

41 Ibid., p. 442.

children are out [extra] days. . . . So there is some apathy on the part of the family in terms of seeing that their children get what they need in terms of this education. The other part that I see at the middle school . . . is that learning problems at the elementary school become behavior problems at the middle school because they are put into classrooms and they are expected to do certain things, . . . and they are not able to do those tasks. So then it becomes a behavioral problem in the classroom.[42]

The Judicial System and Community Efforts

In many cases, the administration of school discipline and the judicial system become intertwined. There is a juvenile court in each county of the State that is responsible for adjudication and disposition of delinquency charges and child abuse and child neglect matters. The juvenile court of the county is assisted in this work by the department of social services, which plans and implements post adjudication rehabilitative youth programs, and a probation office, which works with the serious repeat offenders.

Nancy Francis, Washtenaw County probate judge, presiding in the juvenile division of probate court, spoke of the school influence on the lives of children. She noted that "structure and routine are usually missing elements in the lives of the court's children. . . . School success [positively] affects the sense of determination and self esteem and growth potential of each child in the court."[43] She added that, although the court did not maintain formal statistics on school suspensions, she and those who professionally assist the court have a very educated estimate of the problem of disproportionate discipline in the public schools. More chillingly, the judge maintained that local public districts use the judicial system as a dumping ground for children with whom the school system is unwilling to deal.

From my perspective as a judge in the [juvenile] court, it appears that at least the disciplinary methods of suspension and expulsion fall more heavily upon African American children in Washtenaw County. . . . I am hearing reports regularly on what is happening to each child in school. It is clear to me that there is a significant disparity by race in this particular method of discipline, at least as it involves the court population.

Schools suspend and expel children that they do not want to, or believe they cannot deal with in their present format. That means the population is going to overlap greatly with the children who are served by the juvenile court. And, unfortunately, it appears that the children most readily seen as those who cannot be dealt with are the ones who do not fit in the niches made for them by the existing system. . . .

There are ways that this process or this disparity affects what goes on in the juvenile court, and how children are treated in the court sometimes. For example, there have been countless times that I have held children in our secure detention facility for a longer period of time than would otherwise be necessary, because there is no school program for those children. They have been suspended or expelled [from the public schools]. . . . Our casework staff works diligently to try to develop an outside program for themaan alternative programor we wait out a suspension so that the child can get back into school.

There was a practice in the court, when I first took the bench, of filing probation violations on youngsters [under the supervision of the court] who were suspended from school, because there is a standard court order that all children on probation who are under the supervision of the courts attend and participate in a school program. I have discontinued that policy and have [publicly] stated that I will not accept an authorized probation violation on that basis because the basis for suspension has become too vague and sometimes too petty to warrant a suspension.[44]

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42 Ibid., p. 446.

43 Ibid., p. 490.

44 Judge Francis testified that she had discontinued that policy because "the basis for suspension had become too vague . . . and because the [court] became increasingly aware of the racial imbalance involved in the suspension decision at the school level." (Transcript, p. 493.)

> . . . Increasingly we are seeing recommendations by the school for children to attend the adult education program, children who are 15 and 16 years old.[45]

To Judge Francis, the reason for the racial disparities observed in the school suspensions and encountered in the juvenile court population is institutional racism. The individual administrator in the schools who imposes the discipline penalties may not be motivated by a racial animus, but the continuing effects from past racism are in play.

> [Racial disparities in school suspensions and the court's detention facility] are based on past racism in our communities, in our housing patterns, in the educational system, in all manner of treatments and assistance that we have given to people in the past. . . . That is what I think we are seeing now, because the children who are least likely to succeed are the ones that historical patterns have almost forced to not succeed.[46]

Several positive interactions between the court and the school district were offered by Judge Francis. There is significant interface between the court and the schools at the caseworker level. For instance, the intensive probation department is now part of the school response in dealing with disruptive students, and has had success in keeping a child in school rather than having him or her suspended. But the judge cautioned that the court had to be careful not to become the school system's police officer.

Judge Francis offered a series of specific suggestions to correct the school discipline system, and include the following:

1. Reform the schools of education. Prepare teachers for all the students teachers are going to meet. Youth detention facilities should be filled with student teachers.
2. School classes should be smaller.
3. Parents need to be empowered, educated, and involved in the discipline of their children within the school system.
4. There should be a mandatory requirement for alternatives other than suspension and expulsion. If there is any hope of doing anything with the child, it is lost when he or she is expelled and put on the street with no education.[47]

Also appearing at the factfinding meeting from the judicial system were Nathanial Reid, program coordinator at the Center for Occupational and Personalized Education (COPE), Kim Marvellis, director of the casework services of the Washtenaw County Juvenile Court, and Rich Laster, supervisor of the juvenile court's intensive probation casework.

Marvellis said that the county juvenile court was being asked to handle much of the educational responsibilities for the children. According to Marvellis, the county juvenile court annually has a caseload of between 1,000 and 1,200 youths in nonabuse, nonadoptive matters. Because the school system does not handle serious juvenile offenders, the court takes on the role of educator with these children, a role for which the juvenile court system is not designed.

> We find . . . our caseworkers and our supervisors dealing with the issue of where the kid is going to go if he gets out of detention. . . . And most of the time there are no good alternatives, or there is nothing available for us to send the kid to. So the task is upon us, and not the school, to find the [educational] solution.[48]

> The school should not have the option to say you are out and we are finished with you. . . . The court ends up holding the hot potato in most instances, where the kids reached 13, 14, 15 years of age, and we really know that this youngster is not so delinquent as much as his or her problem, really they have to do with the low functioning, low educational skills and other related

45 Transcript, pp. 491–94.

46 Ibid., p. 495.

47 Ibid., pp. 498–99.

48 Ibid., p. 515.

issues. We feel that really this cannot be continued, and that the schools ought to take a more responsible attitude.[49]

We [in the juvenile court system] think . . . the school systems . . . do not actively pursue and certify everybody that falls under the guidelines of special education. . . . We find ourselves . . . are the ones that initiate individual education plans. . . . We have to initiate that so we can get alternative education services.[50]

At COPE, there are 35 education slots available to the juvenile court for the county, 10 for the Ann Arbor public schools, 3 from Willow Run, 5 from Ypsilanti, and occasionally there is a referral from an outlying district in the county. Currently there are five staff, four State certified teachers, and Reid. The teachers are not special education teachers.

One of the dilemmas facing COPE is the increasing number of students expelled or serving long term suspensions. This increasing number makes it impossible for the current staff to serve the needs of all the students who need services. Reid addressed this in telling the Advisory Committee about the types of student violations that bring students to his facility and his negative opinion of behavior contracts.

We receive a lot of those student that have been expelled or on long-term suspensions because of weapons or drugs. The numbers are greater each year. Right now the majority of them are being sent to us to deal with.[51]

When [students] go back [to school] usually there is a behavioral contract made up. And this behavioral contract sometimes is totally ridiculous . . . because if you are in education or a parent or whatever, you know that middle school timetable for youngsters and development is up and down. One day they want to be an adult, the next day it may be playing with dolls or G.I. Joe. And then you will get a behavioral contract that if you sneeze wrong, you are out of here again. . . . .We have to make some adjustments in this behavioral contract because we know it is not going to work.[52]

Laster addressed the crosscultural misunderstandings that frequently result in negative reactions to minority students in the school setting. The consequence of this misunderstanding results in many minority students feeling angry and acting out. "They feel that they have been singled out or they do not feel they received proper justice."[53]

Judge Francis repeated this message, urging more child advocacy to insure a better and more equitable school discipline.

One of the most common things I hear in the courtroom when youngsters are explaining why it was they were suspended from school is a student on student situation, very often involving an African American child and a white child. And the way the student describes it, which is their subjective point of view, is that they were both at fault in some way, but I was the one who was suspended and the other student was left in school. I hear that over and over again in the courtroom. And we all have a sense of how sensitive children are to fairness. And they feel particularly humiliated and angry when that happens.[54]

The other point [is] . . . that even in districts which have very, very good guidelines about discipline, it only works when adults get involved and can come back in and represent or speak for or with the child in an advocacy way. And so often that does not happen. It is what I was talking about before about the . . . empowered parent. The [discipline] just sails right over their head and the kids have no assistance to come back in and be able to have a forum in which to tell their story and possibly get some justice. . . . system.[55]

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49 Ibid., p. 520.

50 Ibid., p. 518.

51 Ibid., p. 434.

52 Ibid., p. 541.

53 Ibid., p. 537.

54 Ibid., pp. 541–42.

The juvenile court opposition to school suspension was given some measure of support by State Superintendent Schiller. In his testimony he noted that more and more school districts in the State are attempting alternative approaches to suspensions, rather than using this discipline tool as a strategy for improving student behavior.

> Primarily punitive [discipline] such as out-of-school suspension runs counter to the goal of preparing young people for full and productive lives. When the consequences are fair and when they are reasonable and consistently applied . . . the student truly respects discipline and it becomes the learning experience it is meant to be. Quick fixes like out of school suspension/expulsion have no benefit to the students who are suspended.
>
> School suspension programs are increasingly being replaced by more appropriate prevention intervention strategies that provide a more effective long-term solution. There is a need for disciplinary alternatives within a caring environment to keep students in school. The practice of out-of-school suspension and expulsion should be limited to only those very few students whose presence represents a clear danger to the safety and security of the school community in situations where a school over a period may be needed or when a student or parent refuses alternatives to suspension.[56]

Eugene Cain, superintendent of the Highland Park school district,[57] spoke more of generic issues facing school districts, than of individual problems in his school district. He testified that: (1) the issue of discipline in schools is intertwined with the issue of poverty, (2) the leadership of a district, especially with regards to the superintendent, is critical, (3) more minority teachers are needed, and (4) there is a need for data collection.

Regarding poverty and school discipline, Cain shared a recent experience in his school district:

> Case in point, . . . one day we were looking at the problem of the placement of black kids in special education. . . . And it was really interesting because some of us were looking at the problem as if it were a white-black problem, and that is not necessarily the case. You find just as overwhelming a number of black males in special education in all-black school districts as you will find in predominantly white school districts. However, . . . one of the things that is driving this, in my opinion, is poverty. . . . Poverty is . . . expansive in terms of its impact on how we treat children.[58]

Addressing the issue of district leadership, Cain specifically cited Highland Park as an example of a superintendent lowering the suspension and expulsion rates. There were no student expulsions in the Highland Park schools last year.

> One of the other things . . . you need to take a look at . . . where you have a large number of cases of kids being expelled . . . [is] the leadership of the district, especially the superintendent. The superintendent can be the red or green light for suspensions and/or expulsions.[59]
>
> I am superintendent of schools in Highland Park and we did not expel one child last year. We did not expel one child in Highland Park schools last year because I said if you are going to advocate expelling any student, you are going to have a good reason for wanting to expel that student. And you had better have some information to share with me that you have done everything that you possibly can to keep this child in school.
>
> Now as a result of that, [there was] a lot of frustration . . . . Expulsion is one of the easiest ways of dealing with

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55 Ibid., p. 543.

56 Transcript, pp. 12–13. Examples of alternative programs are given in this chapter from the Lansing and Ypsilanti school districts.

57 Prior to his appointment as superintendent, Cain was a teacher in the middle and high schools of Detroit, an instructor in education at Wayne State University, social studies specialist in the Michigan Department of Education, director of secondary education at Highland Park, and assistant superintendent in the Michigan Department of Education for the office of education equity and community services.

58 Transcript, pp. 569–70.

59 Ibid., pp. 570–71.

problems. Keep the kids in school, that is perhaps the biggest challenge. . . . I became very involved in this myself. I mentored three students.[60]

We had a young lady who was involved in distributing marijuana cigarettes—a lot of them on this particular day. This young lady, once I investigated the situation, came from a very poor family. The day she was involved in selling these cigarettes was the day the family was being put out. She was trying to raise the rent money.[61]

Cain feels that schools ought to be about the business of creating sensitive teachers to deal with the difficult situations that children sometimes face. Often these difficult situations are intertwined with race and poverty. Minority teachers can be a real attribute to a school district in this area. Unfortunately, according to Cain, the future supply of minority teachers is decreasing.

Most of your minority teachers will be retired in the next 5 to 10 years. It will be very rare in Michigan to see a black teacher in the next 10 years. It is going to be very rare because we are not there.

When you look at who is being trained down the pipelines you are going to find . . . it will change drastically in the next few years because most of the folks at the top of the longevity scale are minorities. And so that you are going to have are lot of suburban white folks working in all black, mostly minority situations, a lot of times void of contact with these cultures.[62]

Finally, on the issue of data collection, Cain was emphatic.

You need some sort of statewide database to tell you how bad or how good the situation is. Right now you do not have that. . . . Policy is usually driven by data. If you do not have the data, how in the world are you going to effectuate policy? It is out of the question.[63]

60 Ibid., p. 572.

61 Ibid., p. 573.

62 Ibid., pp. 574–75.

63 Ibid., p. 575.

Chapter 4

The State of Michigan: Authority and Equal Education Opportunity

Public education in general and school discipline in particular have generated significant public and political interest and legislation in Michigan in recent years. In 1994 the financing of Michigan public schools was completely overhauled. A new financing scheme was enacted to address some of the disparities between districts in school funding. Legislation passed, effective January 1, 1995, which gives increased authority to local school districts in administering discipline.

School Funding

In 1994 Michigan changed its financing system of public education. The funding for public education was changed from a system primarily property tax based, to one financed primarily through Statewide sales tax revenues.[1] It was designed to eliminate the disparities in per capita student funding. Most provisions of the school aid reform took effect on October 1, 1994, while others affecting the 1993–94 State fiscal year were implemented immediately upon the referendum's passage in 1994. Several items under the reform indirectly affecting school discipline include:

- A per child foundation grant will be used to allocate most of the school aid funding.
- Districts will receive foundation allowance State aid on the difference between the district's foundation level and the per-pupil yield from the base millage.
- A $230 million in "at-risk pupil" funding will be allocated to districts whose 1994–95 base revenue per-pupil is less than $6,500 on the basis of the October 1994 count of pupils eligible for free lunch.
- School readiness grants of $42.5 million for "at-risk" 4-year olds are available, an increase of $15 million over 1993–94.
- ISD special education, vocational education, and operational millages will continue to be equalized.

Kirk Profit, State representative in the Michigan House of Representatives, thought that the new funding initiative provides a more equitable school funding system, but significant disparities still exist. And these disparities affect the disciplinary options available to a district.

> I understand the specific focus [of the factfinding] is discipline and suspensions. Let me speak more of what I know, and that is the general issue of equity in Michigan. . . . We have moved financing to public education in Michigan from a disparity in terms of dollars per pupil from 3 to 1 to 2 to 1. But we still have a significant disparity. Having done this just recently, I think there is a genuine concern that we are finished. I do not know how we can tell ourselves that we are finished with the equity issue when we have a system in place that has a 2 to 1 disparity in financing per student. And it is still driven, to a certain extent, by the property wealth within the district. . . .
>
> It is difficult to deal with those [discipline and suspensions] in a context of a system that is marked by such huge disparities. It is tough to tell a system that it is okay to deny opportunities based on the wealth of the

1 P.A. 1993, No. 336. Twenty-four other public acts are part of the school finance reform package, including P.A. 1993, No. 312, which amends the school code with a new funding plan. The amended school funding plan was supported by a bipartisan coalition in the legislature and the Governor. The plan was approved by the voters in a referendum in 1994.

community in one context, but . . . in the operations within your system, you have to be fair.[2]

There are not differences that would justify a 2 to 1 spending disparity. And that kind of disparity, when you tell a child that your educational opportunity is driven by the measure of property wealth that they are born into, you send a . . . message to the child that reflects itself in all the types of things you are trying to address specifically here today.[3]

Board of Education and Department of Education

The issue of school discipline cannot be separated from the responsibilities of the Michigan board of education. The Constitution of the State of Michigan provides for a board of education to provide leadership and general supervision over all public education. Article VIII expresses the State's encouragement of education (section 1), support for a free and public elementary and secondary schools (section 2), and the duties of the board of education (section 3):

Sec. 3. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.[4]

The board of education consists of eight members who are nominated by party conventions and elected at large for terms of 8 years. The Governor is an ex-officio member of the State board of education without the right to vote.[5] The State board of education appoints a superintendent of public instruction who is responsible for the execution of the board's policies. "The superintendent is the principal executive officer of a state department of education which shall have powers and duties provided by law."[6]

The department of education is created by Michigan law 16.400, Sec. 300, which reads: "There is hereby created a department of education."[7] MSA Sections 301 and 302 establish the State board of education as the head of the department of education and transfer "all powers, duties and functions vested by law in the board of education . . . to the department of education."[8]

The State's General Act to provide a system of public instruction and elementary and secondary schools is encoded in The School Code of 1976.[9] In that act, the State asserts its authority over local school districts.

The state's general policy is to retain control of its school system, to be administered throughout the state under state laws by local state agencies organized with plenary powers independent of local governments with which such agents are closely associated, and education is no part of local self-government inherent in township or municipality except in so far as legislature chooses to make it such . . . The state's general policy has been to retain control of its school system and administer it

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2 Testimony before the Michigan Advisory Committee to the U.S. Commission on Civil Rights, factfinding meetings, Lansing MI, Aug. 3, 1994, Ann Arbor, MI, Aug. 4, 1994, pp. 374–75 (hereafter referred to as Transcript).

3 Transcript, pp. 376–77.

4 Article VIII, Michigan Constitution.

5 Ibid.

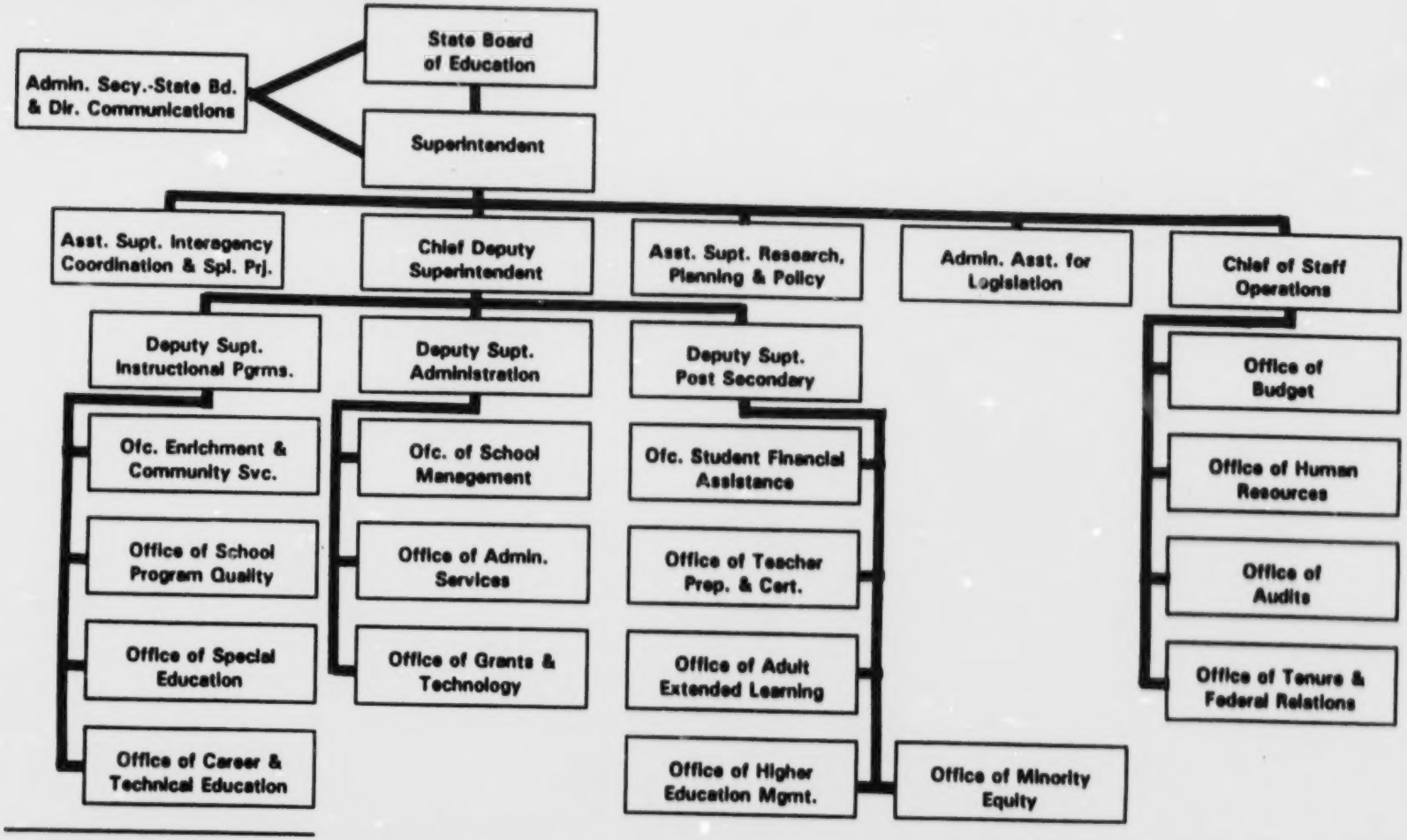
6 Ibid.

7 P.A. 1965, No. 380, § 300, Imd. Eff. July 23, 1965. Michigan Compiled Laws, Annotated, Sections 14 to 20. End, p. 304.

8 Ibid.

9 P.A. 1976, No. 451, Imd. Eff. Jan. 13, 1977.

Figure 4-1
Michigan Department of Education


State Board of Education
Admin. Secy.-State Bd. & Dir. Communications
Superintendent
Asst. Supt. Interagency Coordination & Spl. Prj.
Chief Deputy Superintendent
Asst. Supt. Research, Planning & Policy
Admin. Asst. for Legislation
Chief of Staff Operations
Deputy Supt. Instructional Pgrms.
Deputy Supt. Administration
Deputy Supt. Post Secondary
Ofc. Enrichment & Community Svc.
Ofc. of School Management
Ofc. Student Financial Assistance
Office of Budget
Office of School Program Quality
Office of Admin. Services
Office of Teacher Prep. & Cert.
Office of Human Resources
Office of Special Education
Office of Grants & Technology
Office of Adult Extended Learning
Office of Audits
Office of Career & Technical Education
Office of Higher Education Mgmt.
Office of Minority Equity
Office of Tenure & Federal Relations

Source: Michigan Department of Education, March 1994.

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through local state agencies independently of the local government with which, however, such agencies are closely associated.[10]

The State board of education under its responsibility to provide general leadership to education in the State has published *Guidelines to the Rights and Responsibilities of Students.* The purpose of the *Guidelines* is to provide information that local district boards, staff, students, and community members can use in adopting, implementing, and assessing local standards of student conduct.[11] Beardmore stated:

> Our constitutional duties require us to provide leadership and guidance.... Fifteen years ago the State board of education passed a model code of student conduct and the recommendation to every school district that they, too, should develop a code of student conduct with responsibilities clearly spelled out for all students and the consequence for not following and abiding by those rules.[12]

> Most recently in the laws that were passed last December (1993), Public Acts 335 and 339 require every school district, every school building, to be certain that the rules are clearly understood, they are clearly established, [and that] families [and] students are well-informed.[13]

The *Guidelines* do not dictate a uniform set of rules of student conduct for all districts, recognizing the right of local boards and the community to determine standards of conduct. But State law does require local boards to establish some rules of student conduct. Section 1300 of the School Code requires each local school board to "make reasonable regulations . . . for the proper establishment, maintenance, management, and carrying on of the public schools of the district, including regulations relative to the conduct of pupils concerning their safety while in attendance at school or enroute to and from school."[14]

Though the State board of education acknowledges that Michigan statute gives local boards of education the authority to establish student codes of conduct, attendance policies, and any other policies and practices deemed necessary, in adopting and implementing school policies, local school districts "must consider other criteria such as the authority of the State Board of Education and the rights and responsibilities of students."[15]

Section IV of the *Guidelines,* Due Process and the Fair Administration of Discipline, outlines current law and practice and the authority of local school boards in suspending and expelling students. Procedural due process in this section requires that the rules established at the local school district level bear a reasonable relationship to educational purposes.[16] By authority of section 1311 of the *School Code,* local school boards still retain authority for school discipline.

> Local school boards may authorize or order the suspension or expulsion from school of a pupil guilty of gross misdemeanor or persistent disobedience, when in the board's judgment the interest of the school may demand the authorization or order....[17]

The terms "gross misdemeanor" and "persistent disobedience" are not defined by legislation. The State board has informed local school districts that in developing policies:

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10 Ibid., 5. State policy.

11 Michigan State Board of Education, "Students' Rights and Responsibilities in Michigan," (hereafter referred to as *Guidelines*) May 1982, p. 2. The guidelines are in app. IV.

12 Transcript, p. 18.

13 Ibid.

14 Mich. Comp. Laws Ann § 380.1300 (West 1988).

15 *Guidelines*, p. 2.

16 School Code.

17 Mich. Comp. Laws Ann. § 380.1311 (West 1988).

1. The policy must provide notice of what conduct is prohibited or permitted.
2. The rules must be reasonably understandable to the average student.
3. The rules must be rationally related to a valid educational purpose.
4. The rules must be precise so as not to prohibit constitutionally protected activities.
5. The policy must provide students with notice of potential consequences for violating specific rules.
6. The type of punishment specified in the policy must be within the expressed or implied authority of the school district to utilize.
7. The punishment must be of reasonable severity in relation to the seriousness of the misconduct or the number of times the misconduct was committed.
8. A copy of the rules and procedures must be disseminated to all students.[18]

According to the State board of education perhaps the most important characteristic of due process is its variable nature. The very nature of due process rejects a rigid approach of having a simple and succinct definition covering every conceivable situation.[19] This is relevant to observed disproportionate minority discipline in that cultural factors and other mitigating circumstances should be examined by school districts in the administration of school discipline, and a wooden approach to rules infractions should be eschewed.

The board and the department, however, assert that their authority in matters of school discipline extend only to general guidance. Local schools have final responsibility for the fair and equitable administration of school discipline. Schiller said:

I need to reiterate the fact that in our State, local school districts have the responsibility for establishing the policies of discipline as it affects their students. We, as the State of Michigan, unlike other States in the Nation, do not have a statewide policy, statewide procedure, statewide disciplinary code to affect all schools. The 560 school districts and 3,500 schools have the direct responsibility to establish their individual students' discipline policies as it affects the carrying out of expectations for students and the punishments therein.[20]

Further, the department has faced real budgetary cuts in recent years. The cutbacks at the department have affected the department's monitoring of equal education opportunity in the State. Programs have been funded at lower levels and other programs have been eliminated. Roberta E. Stanley, director of tenure and Federal Relations Commission, Michigan Department of Education, stated:

The State of Michigan was one of the predominant States in terms of the civil rights in schools and the desegregation court orders that were brought down by the Federal courts. We as a State got more emergency school aid assistance than most States in the country. . . . Many of those Federal desegregation orders included items that related to the student suspension and expulsion. So [Michigan] is very sensitive to that.

We have staff in the department [of education] who are funded by the Federal Government that work with local school districts on implementing those grants. . . . That staff is not as strong in place right now as it once was because of different funding trends and programmatic trends, both at the State and Federal levels. . . .

We have convened many meetings in the department of various groups in the department or program areas that would address those issues. I would suggest that because the Congress and State legislature moved more away from categorical funding of individual programs that were for identified students [and] more into what we call block grant funding . . . many of the alternative programs have been funded at the lower level or defunded entirely.[21]

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18 *Guidelines*, p. 41.

19 Ibid., p. 42.

20 Transcript, p. 11.

Profit testified that funding for the department of education had decreased in recent years, and that such decreases had affected its effectiveness in administering control over local school districts. He said:

> The department of education budget has been cut drastically. They get very little in terms of a real State appropriation. Most of their money is Federal money with the specific mandate for a certain function. . . . Thirty million dollars the State gives to the department of Education. . . . Thirty million dollars out of $18 billion in revenue from Michigan residents is spent on the department.[22]

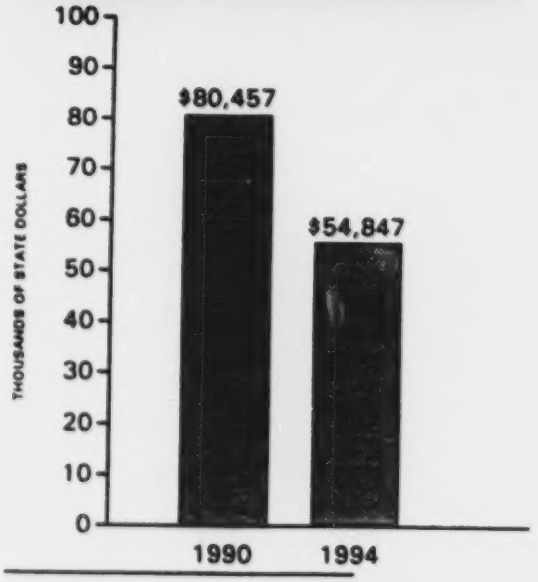
A comparison of budget data for fiscal years 1990 and 1994 supports Profit's assertions. In fiscal year 1990, the State appropriated $51.4 million to the department of education. In 1994 the appropriation from the general fund was $30.7 million, a decrease of 70 percent.[23] Funding for the department comes from three general sources:

- general fund appropriations,
- Federal funds, and
- other local and State revenue sources.

Analysis shows State funding to the department has decreased by 50 percent over the last 4 years. In fiscal year 1990–91, general fund appropriations and other revenue sources to the department were $80,457, 000.[24] In fiscal year 1994–95 that funding had decreased to $54,847,000; the Governor's proposed spending on the department from these two sources for fiscal year 1995–96 was slightly higher at $60,750,000.[25]

Cutbacks in funding by the State to the department are even more severe when measured in real dollars. Adjusting nominal funding amounts for inflation, State funding to the department decreased 63 percent between 1990 and 1994 (see table 4-1).[26]

TABLE 4-1
Real State Spending on the Department of Education, 1990 and 1994



Source: Midwestern Regional Office, USCCR, from Executive Budget.

One of the units affected in the department of education is the race relations and sex equity unit. The unit was initialiy established in 1980 and provided assistance to local districts in providing equal education opportunities to all

21 Transcript, pp. 27–28.

22 Transcript, pp. 387 and 396.

23 State of Michigan, Executive Budget, Fiscal Year 1990–91, p. H3 and Fiscal Year 1994–95, pp. B1–B4.

24 State of Michigan, Executive Budget, Fiscal Year 1990–1991, p. H3.

25 State of Michigan, Executive Budget, 1994–95 Fiscal Year, pp. B1–B4.

26 Real dollars are nominal dollars divided by an inflation index. Using the implicit price deflator (1987=100) for the years 1990 and 1994, real dollar expenditures to the department in FY 1990–91 was $71,092,000 and in FY 1994–95 $43,495,000.

students regardless of race, color, or gender. In 1990 the unit was still operating within the department with a staff of six: a director, three coordinators, and clerical staff. In addition, the department acted as a central depository for information for issues dealing with race and gender equality in education. The office is now defunct. There remains an office of enrichment and community services under an assistant superintendent, but the duties of that office do not specifically address issues of equal education opportunity.[27]

Discipline Data Collection

Although the department does not have responsibility for local district discipline policies, since 1990 it has been given the responsibility to collect data on student suspensions and expulsions. Michigan Compiled Laws, § 388.1757, Sec. 157 of the State School Aid Act reads:

> In order to receive funds under this act, each district and intermediate district shall furnish to the department, on a form and in a manner prescribed by the department, the information requested by the department that is necessary for the preparation of a study of suspended or expelled pupils in grades K to 12 as required by section 307 of the . . . department of education appropriations act.[28]

Many told the Advisory Committee that it was essential that such data be collected on suspensions and expulsions. However, there was no record of any such data collection by the department. Schiller was questioned both on the department's collection of suspension data and the use of the data by the department.

> Saleh (Advisory Committee member): Dr. Schiller, you indicated . . . you are required to keep statistics on suspensions for more than 10 days. So now these school districts have to report these to the State board of education, is that correct?
>
> Superintendent Schiller: Yes
>
> Saleh: And . . . what is your role after that? Just to develop the statistical data?
>
> Schiller: Develop statistical data [and] report the statistics to the legislature, and to recommend to the State board of education any policies or guidance that we do provide to school districts in order to address these issues.
>
> Saleh: But again . . . you are not keeping statistics of this on the basis of race, sex, national origin.
>
> Schiller: We have not, but we will be in terms of disaggregating the data.[29]

Ombudsman Unit

The Michigan Department of Education established a student issues ombudsman unit on March 1, 1994, within the department's office of enrichment and community services to respond to inquiries regarding student issues, including suspensions and expulsions.[30] The unit does not investigate or advocate on behalf of students, but disseminates information, provides counseling, and makes referrals. The major objectives of the unit are to:

- provide assistance which will enable students to stay in school and to learn
- facilitate dialogue between parents and the local school board[31]

If the issue regards student discipline, such as suspension or expulsion, the ombudsman staff

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27 Ivan Cotman, telephone interview, Feb. 13, 1995.

28 State School Aid Act, MCL § 388.1757, Sec. 157. History: P.A. 1979, No. 94, § 157, added by P.A. 1990, No. 207, § 1, Eff. Oct. 1, 1990. Amended by P.A. 1991, No. 118, § 1, Imd. Eff. Oct. 11, 1991.

29 Transcript, pp. 39–40.

30 The unit personnel includes an ombudsman, ombudsman coordinator, executive assistant ombudsman, assistant ombudsman, intake coordinator, and two back-up intake coordinators.

31 Robert E. Schiller, letter to Janice Frazier, Aug. 3, 1994, Midwestern Regional Office, USCCR, files.

may call the local school district to clarify details of the suspension, expulsion, or other issue and inquire about due process procedures. Staff may also ask local district officials for information on educational alternatives available which would enable the student to continue his/her education while on suspension and expulsion. The department policy is that:

> Ombudsman staff advises callers that appeals for suspensions can be taken to the local district board and expulsion appeals would be handled through private legal action. The department does not hear appeals for student suspension and expulsions.[32]

The establishment of the ombudsman unit is an attempt by the department to organize its response to complaints and inquiries. In recent years prior to the establishment of the ombudsman unit, there was no organized intake or response to complaints and inquiries made to the department. A standard citizen complaint and inquiry form was used, but these were accepted by several units within the department, with no accurate intake procedures and no formal followup.

An examination of the complaint and inquiry forms at the department found complaint and inquiry forms, along with the department's actions and dispositions, placed in three-ring binders and set in an office in the department building. Staff of the regional office examined all complaints and inquiries made to the department during 1993 dealing with minority student discipline actions.

Twenty three of those inquiries dealt with minority student discipline issues. Some type of disposition or referral by the department was associated with each complaint and/or inquiry, including: sending the rights and responsibilities guidelines (eight times), referring the petitioner to the school board and/or superintendent (six times), referring the petitioner to the department of civil rights (five times), and referring the petitioners to other groups including the Student Advocacy Center and the Bureau of Indian Affairs. No referrals were noted to the Office for Civil Rights, U.S. Department of Education.

Michigan Department of Civil Rights

The Michigan Department of Civil Rights (MDCR) works under the authority of the Michigan Civil Rights Commission (MCRC). The MCRC was created by the Michigan Constitution of 1963 and is empowered to investigate allegations of discrimination. Article V, §29 of the Michigan Constitution reads:

> There is hereby established a civil rights commission. . . . It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color, or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination.[33]

Cooperation between the MDCR and the Michigan Board of Education in dealing with issues of race and ethnic discrimination in public schools extends back more than 30 years. In 1966 the MDCR and the department of education entered into a joint policy statement that recognized the role of the State board of education and its constitutional charge to provide leadership and general supervision over all public education and the role of the commission in securing and protecting the civil right to education without unlawful discrimination.

The authority of the commission extends to educational facilities and public school districts. Janet Cooper, deputy director for legal and community affairs with the MDCR, explained this authority and gave information on the commission's work with public school districts.

> During the constitutional convention the framers of the constitution talked about several civil rights areas. Although they ultimately declined to enumerate them, one of the those areas was . . . the area of education.[34]

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32 Ibid.

33 Constitution of Michigan of 1963, Art. V, §29.

> Since 1987 [the MDCR] has received 119 complaints against school districts in the State of Michigan alleging unlawful suspension or expulsion. Forty-four alleged suspensions [were] based on race; 36 of those claimants were black. Twenty-seven alleged expulsion on the basis of race; 25 were black. Sixteen alleged suspension based on national origin, including nine Hispanics and three Native American students. Seven alleged expulsion based on national origin, including five Hispanics and one Native American student. The 25 other alleged suspensions and expulsions [were] on other bases such as gender, pregnancy, handicap, retaliation for activities. . . .[35]

The Elliott-Larsen Civil Rights Act defines civil rights in the State of Michigan and the duties of the civil rights commission and the department of civil rights.[36] The act declares that the opportunity to obtain equal utilization of educational facilities without discrimination because of race, color, or national origin is a civil right.[37] Cooper explained MDCR procedures in investigating education complaints.

> Complaints must be filed with the department of civil rights within 180 days of the alleged act of unlawful discrimination, but under the same statute people can go to court directly; [they] need not go through the department of civil rights for a period of 3 years.
>
> Once a complaint is filed, the respondent agency, in this case the school, school district, school board, would be notified of that complaint. We would normally send out a questionnaire asking questions which are relevant to the kind of allegations made.
>
> After that we usually schedule a conference at the beginning of our investigation between whatever the school district is and whoever the parent [is] . . . to see if we can sort out the issues and whether we can make any early resolution in that process. A significant number of our complaints are resolved through that kind of early resolution process.
>
> If [the MDCR] is not successful in that resolution, we will then do a complete investigation, reviewing records, interviewing witnesses, whatever is required. If our investigation indicates evidence of unlawful discrimination, we will invite the respondent to meet with us in a formal conciliation process, which is a requirement to proceeding further. . . .
>
> If we do not succeed in resolving the complaint through conciliation, we will issue a formal charge and conduct a formal administrative hearing. At the end of that administrative hearing, the hearing officer makes a proposal to the eight members of the civil rights commission, including conclusions of law and findings of fact. When the commission enters its order, the order is appealable through and enforceable through the circuit court of the State.[38]

Complaints to the department of civil rights alleging discrimination in education are a small portion of the department's total caseload. From program year 1988–89 to 1992–93 the department received 29,000 complaints. Of those, 368 (1.3 percent) alleged discrimination in education, and 94 dealt with the issue of school discipline.[39] Most of these complaints were from African Americans, 74 percent (see table 4-2).

Cooper explained that allegations of discrimination in education has been a persistent, but small part of the department's caseload.

> Over the past several years, the number of education complaints have averaged fewer than 2 percent of the total complaints filed. Employment cases usually represent more than 90 percent of all complaints, followed by housing, places of public accommodation, and public service and law enforcement.

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34 Transcript, p. 142.

35 Ibid., p. 143.

36 P.A. 1976, No. 453, Eff. Mar. 31, 1977. Amended by P.A. 1992, No. 124 § 1, Imd. Eff. Jun. 29, 1992; P.A. 1992, No. 258, § 1, Imd. Eff. Dec. 7, 1992.

37 Ibid., Art. 1, Sec. 102(1).

38 Transcript, pp. 158-59.

39 Michigan Department of Civil Rights, *Annual Report Fiscal 1993*, p. A-6.

TABLE 4 2
Education Complaints to the MDCR, 1987 1993

Issue:	Suspension		Expulsion	
African American	44	73.3%	25	73.5%
Hispanic	9	15.0%	5	14.7%
American Indian	3	5.0%	1	2.9%
Other	4	6.7%	3	8.8%
Total	60		34	

Source: Midwestern Regional Office, USCCR, from MDCR data.

The low number of complaints in education, however, does not reflect the extent of discrimination in our schools or the extent of the commission and department's concerns for achieving equal opportunities for all students. . . .[40]

In the late 1960s racial conflict and student demonstrations reached a critical level in the State. The MDCR in cooperation with the State department of education assisted 18 communities in handling more than 50 racial tension situations in local high schools and area colleges. Subsequent to this cooperation agreement, the MDCR and the commission did a report on discipline and suspension policies and practices in the public schools. The report was prompted by the number of complaints made to the MDCR from several Michigan school districts.

The report, published in 1968, recommended that school districts should review their policies regarding discipline, suspension, and expulsion.[41] The report also noted as a problem a concern still expressed today—the association between minority and low socioeconomic status and school discipline, i.e., minority and poor students receive unequal treatment in the administration of school discipline.

> There is a wide-spread problem with respect to the violation of the rights of public school children through the absence or inadequacy of safeguards for due process of the law in the procedures followed by many school districts in implementing suspension and expulsion authority. There is, in fact, accumulating evidence that this deficiency affects, most acutely, Negro and poor children. . . .
>
> Underlying the racial tension which has erupted into open confrontation in numerous Michigan school districts this current year is the question of *unequal application of discipline* [emphasis added] as seen by Negro students at the secondary level. The matter of the unequal application of discipline raises the question of what action can be taken at the State level to aid in the solution of this problem.[42]

Department concern for equal educational opportunities for minority students has not diminished since their 1968 report. In 1986 the MDCR conducted an analysis of equality in education and commented on several areas of specific importance to educational equality. Those issues

40 Transcript, p. 160.

41 Michigan Department of Civil Rights, "Discipline and Suspension Policy and Practices in Michigan Public Schools." The complete report is in app. V.

42 Ibid., p. 4.

included data collection, employment and higher education, teacher training, dropout rates for minority students, school conduct code issues, and sex equity in the public schools.[43]

Addressing the issue of school discipline, Cooper gave information on disproportionate discipline that has come to the attention of the department in recent years.

> Last week one of our staff members in the western side of the State reported to us that in the Grand Rapids public school system their statistics showed that black students are suspended at a rate of approximately two and one-half times that of whites. The percentage of black student suspensions in the 1993–94 school year was 63.5 [percent] while for whites it was 24.7 percent. We also understand that there are similar, but not identical problems in the Holland public schools except that there the problem is frequently a higher rate of suspensions for Hispanic students.[44]

Adding to the discussion on disproportionate school discipline of minority students, Cooper connected discipline to dropout rates, and the relationship of dropout rates to prison incarceration rates. Some of these so-called dropouts, she alleged, are in reality "push outs," i.e., students leaving school because the school has let them know that they are unwanted.

> We know that there are a number of perfectly valid reasons for dropouts, students being moved to another district, movement out of State, many other things may occur. . . . We also recognize [though, that] . . . sometimes dropouts are the result of pushouts. They may reflect students who have concluded because of a pattern of suspension and disciplinary difficulties that school is not a place for them, or may drop out because of the problems they have had in such programs.
>
> We recommend consideration of tracking systems for students with discipline problems. We have heard too frequently about students whose problems begin with discipline and then suspension, and they subsequently find themselves in special education programs which end in pushouts or dropouts.[45]
>
> The [Michigan] department of corrections [reported to] us that of the 40,420 prisoners now in State correctional facilities, 21,655 of them entered the system without high school completion, more than 50 percent. This covers all of the prisoners currently in Michigan correctional facilities. . . . We need to know some of the kinds of things that do correlate with suspensions in school, with dropouts, with grade retention, and with being tracked into special education where it may not have been the appropriate response.[46]

Other estimates of Michigan inmate population without high school diplomas are higher. In addition, these estimates also show the cost to taxpayers of incarceration are much higher as compared to education costs. Zweifler offered an exhibit stating that approximately 80 percent of Michigan prisoners did not complete high school. The average cost for housing and maintaining one prisoner for 1 year is $22,800, while the average cost per year to educate a child is only $4,000.[47] The cost for one child in a State juvenile facility is approximately $52,000 per year; in a private facility, the cost is about $48,000 per year.[48]

Beardmore, too, stated that the State board of education was concerned about students being "pushed out" of school, and its effect on the quality of education in the State.

> We understand that there are variations in the number of students who are expelled or suspended and that there are such things as student being pushed out of school, not dropping out. . . . It is a . . . practice which

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43 Janet Cooper, transcript, p. 146.

44 Transcript, p. 147.

45 Chap. 6 of this report examines the relationship of disability and discipline.

46 Transcript, p. 151.

47 H. Lynn Johndahl, "The Education Assurance Act, HB 5096, An Act to assure a better education and a brighter future for all Michigan children," Lansing, MI, 1990, p. 14.

48 Ibid.

the State board of education strongly opposes. [We] recommend a number of alternatives for the school districts so that we can assure that all students will be successful in learning what it is they need to know to be successful adults. We know that expulsion and suspension are not the way to assure those final outcomes.[49]

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49 Transcript, p. 23.

Chapter 5

The Federal Government and the Enforcement of Nondiscriminatory School Discipline

Two Federal agencies have responsibilities in monitoring the administration of discipline by local school districts. The Office for Civil Rights (OCR), U.S. Department of Education, enforces the Federal statutes that prohibit discrimination in programs and activities receiving Federal funds. Kenneth A. Mines, Regional Director of OCR, stated, "Discriminatory discipline practices violate Title VI [of the Civil Rights Act of 1964] and obstructs the meaningful access to educational opportunity."[1] Title VI reads:

Sec. 601. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to, discrimination under any program or activity receiving Federal financial assistance. . . .

Sec. 606. For the purposes of this title, the term "program or activity" and the term "program" mean all of the operations of . . . (2)(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system; . . .[2]

The Community Relations Service (CRS), U.S. Department of Justice, provides services, including conciliation, mediation, and technical assistance, directly to people and their communities to help them resolve conflicts and tensions arising from actions, policies, and practices perceived to be discriminatory on the basis of race, color, or national origin. It has the authority to mediate issues of discipline in school districts where there are allegations of racial and/or ethnic disparity. The authority of the CRS also derives from the Civil Rights Act of 1964. Title X reads:

Sec. 1001.(a) There is hereby established . . . a Community Relations Service.

Sec. 1002. It shall be the function of the Service to provide assistance to communities or persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin. . . .[3]

Office for Civil Rights U.S. Department of Education

The Office for Civil Rights (OCR) is the Federal agency primarily responsible for enforcing civil rights laws concerning elementary and secondary schools. As such, they are charged with ensuring equality of opportunity in what is a critical function of State and local government and arguably the government's primary means of helping minority and disadvantaged children succeed in life. The OCR is intended to be the front-line Federal agency to eradicate barriers that impair educational opportunities for minority students.

CR enforces several Federal statutes in the area of education, including title VI of the 1964 Civil Rights Act, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. Discrimination on the basis of race, color, and national origin is prohibited by title VI; sex

1 Testimony before the Michigan Advisory Committee to the U.S. Commission on Civil Rights, factfinding meetings, Lansing, MI, Aug. 3, 1994, and Ann Arbor, MI, Aug. 4, 1994, transcript p. 77 (hereafter referred to as Transcript).

2 Pub. L. No. 88–352, July 2, 1964, 78 Stat. 241.

3 Ibid.

discrimination is prohibited by title IX of the Education Amendments of 1972; discrimination on the basis of disability is prohibited by section 504; and age discrimination is prohibited by the Age Discrimination Act of 1975. OCR has the authority to enforce these laws in all programs and activities that receive funds from the U.S. Department of Education. These include programs and activities operated by institutions and agencies, such as State education agencies, elementary and secondary schools, colleges and universities, and vocational schools.

Title VI is the major piece of legislation that is enforced by the OCR. According to Mines:

> Title VI of the Civil Rights Act of 1964 governs and enriches the efforts of States and local communities to identify challenging educational standards and to equip students to meet them. Title VI requires that all students be provided equal educational opportunities without regard to race, color, or national origin.[4]

> OCR is organized into 10 regional offices that report to our headquarters in Washington [D.C.] Michigan is covered by the Region V office as are Minnesota, Wisconsin, Illinois, Indiana, and Ohio. Region V has a primary office in Chicago and a field office in Cleveland, which . . . handles secondary education matters in Michigan and Ohio.[5]

The Cleveland district office of the OCR has jurisdiction over the States of Michigan and Ohio in elementary and secondary education matters. In the office are 25 staff, including support staff, investigators, supervisors, and a legal staff. Additional staff is in the Chicago regional office, which has oversight responsibilities for the Cleveland district office and jurisdiction over Indiana, Illinois, Minnesota, and Wisconsin.

Currently, the Cleveland district office is divided into two teams, the Michigan team and the Ohio team. The Michigan team has one supervisor, one clerical worker, eight investigators, and two attorneys. The Ohio team has one supervisor, two clerical workers, seven investigators, and two attorneys. In case of work overflow, adjustments are made between the two teams and between the district office and the regional office in terms of staff and work assignments.[6]

A potent enforcement tool of the OCR is its ability to terminate a school district's Federal funding. In the 1970s the OCR's willingness to defer or terminate funding and to threaten such terminations caused many school districts to comply with provisions of civil rights statutes. Zweifler testified that in the area of disparate school discipline, the efforts of OCR and other enforcement agencies are crucial:

> [The Student Advocacy Center] is not funded. We do both individual case advocacy and we do throughout the State and we do our best to monitor policies and practices and we receive hundreds of similar calls. . . . We cannot represent these children without the help of the agencies, agencies mandated to protect the kids. It is impossible.[7]

OCR investigates complaints filed by individuals, or their representatives, who believe that they have been discriminated against because of race, color, national origin, sex, disability, or age. The Office also initiates compliance reviews of recipient institutions and agencies, and monitors the progress in eliminating discriminatory practices of institutions and agencies that are implementing plans negotiated by OCR. First attempts at resolving problems uncovered during compliance reviews are through negotiation. If problems cannot be resolved through negotiation, then OCR initiates enforcement proceedings. Mines described the compliance review priorities.

> OCR is currently implementing a strategic enforcement plan which targets several significant civil rights issues for a concentrated effort,including compliance review investigations and technical assistance

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4 Transcript, p. 77.

5 Ibid., p. 78–79.

6 Ibid., p. 110–11.

7 Ibid., p. 59.

activities. These issues were identified after wide-ranging consultation with parents, advocacy groups, educators, State and local agencies, OCR and department of education offices, and other members of the civil rights and education communities. Our current highest priorities are:

- overrepresentation of minority students in special education classes and programs;
- uses of testing that discriminate on the basis of race, color, national origin, or sex;
- underrepresentation of minority students and women in mathematics and science and high tech courses; and
- special language assistance to limited-English proficient national origin minority students.[8]

On December 11, 1990, OCR released its *National Enforcement Strategy* for FYs 1991 and 1992. In that strategy, OCR set out its enforcement goals for the next 2 fiscal years and promised a "more comprehensive and balanced enforcement strategy to supplement, and complement, OCR's complaint investigation program [and thus] enable OCR to focus its available resources on many important issues that do not usually arise through complaints and to initiate investigations of broader impact than are found in most complaint allegations."[9]

For FY 1991, OCR listed seven strategic priorities the agency would emphasize in its planned activities to ensure equal education opportunity:

1. Equal educational opportunities for national origin minority and Native American students who are limited-English proficient;
2. Ability grouping that results in segregation on the basis of race and national origin;
3. Racial harassment in educational institutions;
4. Responsibilities of school systems to provide equal educational opportunities to pregnant students;
5. Appropriate identification for special education and related services for certain student populations, e.g., 4,32 "crack babies" and homeless children with handicaps;
6. Discrimination on the basis of sex in athletics; and
7. Discrimination on the basis of race in admissions programs and in the provision of financial assistance to undergraduate and graduate students.[10]

For its program year in FY 1992 OCR identified six priority issues of concern for the agency, five of which potentially affected elementary and secondary schools. One of these priority issues was discrimination in student discipline.

1. Overinclusion of minority students in special education classes;
2. Sexual harassment of students;
3. Student transfer and school assignment practices that result in the illegal resegregation of minority students;
4. *Discrimination on the basis of race and national origin in student discipline;* and
5. Equal opportunities for minorities and women to participate in math and science courses.[11]

The Advisory Committee notes that school discipline was dropped as a priority issue in the 1993 strategic plan. Mines acknowledged that in recent years, responding to community concerns over increases in violence in schools and other safety issues, many school districts throughout the country have instituted stricter disciplinary codes. In many districts, these more stringent codes are resulting in more suspensions and expulsions. Since minority and nonminority children are disciplined for all types of reasons and under all kinds of circumstances, as a matter of

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8 Ibid., pp. 79–80.

9 U.S. Department of Education, Office of Assistant Secretary for Civil Rights, *National Enforcement Strategy Office for Civil Rights FYs 1991–1992* (Dec. 11, 1990).

10 Ibid.

11 Ibid., emphasis on school discipline added.

course these actions do not involve the OCR. However, according to Mines:

> When discipline is imposed on the basis of race, color, or national origin in federally assisted education programs, civil rights issues covered by title VI arise. While frequency of discipline alone is not enough evidence to establish a violation, statistics about the impact of discipline practices upon minority students provide an indicator of possible civil rights compliance issues.
>
> Statistics are frequently relied on as indicators of possible discrimination in discipline. Studies conducted since the early 1970s have shown that minority children are being disciplined more frequently, and in some situations, receive more severe penalties than nonminority students.
>
> For example, according to studies by the OCR and the Children's Defense Fund in the 1970s and 1980s, African American students were more likely to be referred for suspension than white students. The 1988 OCR Elementary and Secondary School District Civil Rights Survey of 4,556 school districts showed that black students comprised 21.4 percent of the total school enrollment, but received over 38 percent of all suspensions while white students, making up over 61 percent of the total enrollment, received 48 percent of total suspensions.
>
> According to the 1990 OCR survey . . . white students were 68 percent of the total enrollment and got 54 percent of the suspensions. African American students receive 32 percent of the suspensions, double their 16 percent national enrollment. Suspension rates for Hispanics and other minority groups were very close to the enrollment percentages.[12]
>
> Nationally for the 1992 OCR survey . . . African American students were 16 percent of the total school population and received 34 percent of all suspensions. White students were 67 percent of the enrollment and got 51 percent of the suspensions.[13]

Mines acknowledged that the OCR data for Michigan revealed a similar pattern. The 1992 OCR survey of Michigan elementary and secondary schools showed whites being 80 percent of the student population and recipients of 71 percent of the disciplinary suspensions. African Americans were the group receiving the most disproportionate discipline. They were 15 percent of the student population, and received 25 percent of school suspensions.

Asians were 2 percent of the student population and received less than 1 percent of school suspensions. American Indians were 1 percent of the student population and received 1 percent of the suspensions. Hispanics received 3 percent of the suspensions, and were just 2 percent of the student population (see table 5-2).

Mines discussed the OCR's involvement in school discipline issues. In the past the OCR has conducted both complaint investigations and compliance reviews, involving possible discrimination in discipline, in region V. The complaints have been generated by minority parents asking OCR to investigate what they consider to be discriminatory treatment of their children.

According to OCR regional records, in the 3-year period, June 1, 1991, to June 30, 1994, there were 346 complaints filed against Michigan public school institutions. Of those 346 complaints, outside of special education, just 6 were related to student discipline. This implies that less than 2 percent of all complaints received by the OCR concerning discrimination in education opportunity in Michigan had to do with allegations of disparate discipline.

Moreover, even though the statistics generated by the OCR and other studies show African American students being the group suffering the most disproportionate discipline, only half of the discipline complaints concerned African American students. Three of the six discipline complaints alleging discrimination concerned African American students, two concerned American Indian students, and one concerned a white student.[14]

Mines admitted that the small number of discipline related complaints may stem from few

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12 Transcript, pp. 83–84.

13 Ibid.

TABLE 5.1
National Comparison of White and Black Student Suspension Rates

	Enrollment rate		Suspension rate	
	White	Black	White	Black
1988	61%	21%	48%	38%
1990	68%	16%	54%	32%
1992	67%	16%	51%	34%

Source: Midwestern Regional Office, USCCR, from OCR data.

TABLE 5.2
OCR Survey of School Discipline, Michigan, 1992

	American Indian	Asian	Hispanic	Black	White
Membership	16,972	24,533	30,283	237,533	1,257,032
Rate	1%	2%	2%	15%	80%
Suspension	797	307	2,215	19,093	53,757
Rate	1%	0%	3%	25%	71%

Numbers may not add to total due to rounding and reporting errors.
Source: U.S. Department of Education, Office for Civil Rights, 1992 Elementary and Secondary School Civil Rights Compliance Report, Projected Values for the State of Michigan.

individuals knowing about the existence of the OCR. Mines admitted as much.

> We have thought in the past, that because we have been enforcing this since 1964 that everyone knew that we existed. We found out that they did not. . . . So what we had begun to do is getting focus groups, in other words, parents, teachers, advocacy groups, meeting with them, trying to find out their concerns and also through our technical assistance program, just go out and meet with parent groups and to send the word out on what the rights are and what our agency is all about. . . . And also I think we need to use the news media better, let people know that we are out there.[15]

OCR Compliance Reviews

Mines discussed school discipline as a civil rights issue. He said that the issue first arose in the context of school desegregation, reaching a high point in the 17 southern and border States during the 1971–72 school year. There were reports from OCR regional offices of HEW which were monitoring implementation of desegregation plans and conducting onsite reviews that school systems were discriminating against black students in applying discipline. Also, in enacting the Emergency School Aid Act of 1972 Congress expressed its concern about testimony regarding discriminatory expulsions and suspensions.[16]

14 Ibid., p. 103.

15 Ibid., pp. 105–06.

16 Ibid., p. 81.

According to Mines, OCR has recently been actively involved with discipline issues:

> In the past, OCR conducted complaint investigation and compliance reviews involving possible discrimination in discipline. Many of the complaints are filed by minority parents who are asking OCR to investigate what they consider to be discriminatory treatment of their children.
>
> OCR has also conducted a full compliance review investigation under title VI of the disciplinary policies and practices in school districts. Districts have been selected for discipline compliance reviews on the basis of pattern of complaints for a period of time, information from OCR surveys, State data or other sources showing an unusually high suspension/expulsion rate for minority students, or information from parents, organizations, and others.
>
> These investigations involve massive data collection, indepth statistical analysis, and extensive interviews of students, teachers, administrators, and parents for a wide range of legal and factual issues. . . . To investigate racially different treatment in discipline, OCR covers three areas: discipline rules and practices, referrals, and the imposition of sanctions.[17]

Federal officials with the Department of Education further stated that OCR, with respect to the administration of discipline rules and practices, examines several facets of discipline. This includes doing an analysis of whether discipline policies and procedures are racially neutral in content. In examining the basis for referrals, OCR examines whether there are disproportionate referrals for minority students for subjective as opposed to objective offenses. Finally, OCR determines whether minority and nonminority students are being administered similar disciplinary sanctions for similar offenses. Similarity includes both the type of punishment, i.e., suspension, and also the severity of the punishment, i.e., days suspended.[18]

According to Mines, from 1980 to 1992 OCR investigations of alleged civil rights violations were restricted to the different treatment model. The agency was required to show that a minority student received different treatment from a similarly situated nonminority. The Attorney General has issued a memorandum to Federal departments and agencies directing them to also use the disparate impact approach in enforcing civil rights.[19]

A disparate impact approach may include a prima facie case dependent upon statistical evidence that a district's discipline system, or a component practice, although facially neutral, produces a significant, adverse, disparate impact upon minority students. With the prima facie case established, OCR would examine whether the school district could produce sufficient evidence showing the discipline system or component is educationally justified.[20]

The Advisory Committee examined the number and type of OCR compliance reviews nationwide, in region V, and in Michigan for the years 1991–92, 1992–93, and 1993–94. This period included a time when a strategic priority of the U.S. Department of Education was "discrimination on the basis of race and national origin in student discipline."[21]

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17 Ibid., pp. 85–86.

18 Ibid., pp. 86, 87, and 88.

19 Ibid., p. 90. The memorandum from the Attorney General reads: "Enforcement of the disparate impact provisions is an essential component of an effective civil rights compliance program. Individuals continue to be denied, on the basis of their race, color, or national origin, the full and equal opportunity to participate in or receive the benefits of programs assisted by Federal funds. Frequently discrimination results from policies and practices that are neutral on their face but have the effect of discriminating. Those policies and practices must be eliminated unless they are shown to be necessary to the program's operation and there is no less discriminatory alternative." Office of the Attorney General, Memorandum for Heads of Departments and Agencies that Provide Federal Financial Assistance, July 14, 1994.

20 Ibid., pp. 91–92.

21 U.S. Department of Education, Office of Assistant Secretary for Civil Rights, *National Enforcement Strategy Office for Civil*

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The Cleveland district office of the OCR has recently completed three compliance reviews investigating the issue of disparate discipline. Two of the reviews were initiated by the district office, and one was the result of a complaint filed with the office. The three reviews were of school districts located in Ohio, Youngstown, Euclid, and Cleveland Heights–University Heights. There have been no reviews by OCR of any Michigan school district regarding its administration of discipline.

In the three reviews, OCR sought to determine whether the district's disciplinary policy and practices and the imposition of disciplinary sanctions result in discrimination against black students on the basis of race, in violation of title VI of the 1964 Civil Rights Act. A violation was found in one of the school districts, and the district agreed to engage in action-oriented programs. No violation was found in the other two Ohio school districts.

In the course of the investigation of each district, OCR:

- examined the district's disciplinary code;
- interviewed teachers regarding their understanding and administration of the code;
- analyzed the number of discipline referrals by race;
- analyzed whether, after referral, black students receive equal penalties to those imposed against white students for the same disciplinary offense.
- analyzed the discipline referrals of teachers identified as making a great number of referrals, and interviewed those teachers;
- analyzed enrollment and referrals by race for Lee House and Cedar House, district alternative education placements;
- examined suspension and expulsion hearings;
- interviewed students; and
- asked school officials for an explanation for the disparate number of discipline referrals meted out to black students.[22]

Community Relations Service U.S. Department of Justice

Unlike OCR, the Community Relations Service (CRS) mediates racial conflicts in a nonenforcement manner, and has successfully intervened in school discipline disputes in Michigan. In 1994 CRS mediated a student conflict in a public school in Michigan. The involvement of CRS followed a series of student conflicts with racial overtones that culminated in the expulsion from school of two African American students. The mediation involved a series of discussion sessions that resulted in a letter of understanding signed by representatives from the Kentwood School District, and involved students, parents, and community representatives.[23] The letter of understanding is in appendix VI.

The CRS carries out conflict resolution services by mediation professionals located in 10 regional offices and three field offices. Michigan operations are served by the Midwest Region, which has its offices in Chicago, Illinois. Five conciliation specialists are assigned to the region. A field office operates in Detroit, Michigan, under the jurisdiction of the Chicago regional office. It is the only field office in the Midwest Region, and the one

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Rights FYs 1991–1992 (Dec. 11, 1990).

22 U.S. Department of Education, OCR, Cleveland district office, investigative report for the Cleveland Heights–University Heights School District.

23 Letter of Understanding Between Kentwood School District & Concerned Students and Parents, June 8, 1994, Midwestern Regional Office, USCCR, files (hereafter referred to as CRS Letter of Understanding). Signing the agreement for the Kentwood Public School District were: Mary Lieker, superintendent; Linda David, school board member; Rosemary Ervine, assistant superintendent for instruction; Patricia Brown, principal; Larry Corbett, principal. Students, parents, and members of the community signing the agreement included: Linda Hitchcock, parent; Kamau Hosey, parent; Mrs. Blassingame, parent; Curt Agard, student; Tia Bates, student; Nellie Blue, NAACP; Rodney Brooks, Urban League; and Billy Taylor, community representative. Witnessing on behalf of the CRS was Gustavo Gaynett, director of the Detroit field office.

conciliation specialist assigned to the office has Michigan for his area of responsibility.[24]

CRS is alerted to community racial problems or violence through news media reports, staff observation, or through requests for assistance from State and local officials and community leaders or individuals. CRS follows a systematic process for conflict resolution. Conciliators first file alerts when they identify conflicts resulting from actual or perceived discriminatory practices based on race, color, or national origin. Assessments are conducted to confirm initial information reported through alerts and to determine whether CRS should intervene.[25]

Racial tensions on college or university campuses and at elementary, middle, or high schools are specific conflicts the CRS mediates. Moreover, the issue of school discipline is of particular interest to CRS. In its public information pamphlet, *Catalyst for Calm*, the service asks:

> Have you seen an increase in racial fights in your school? Do members of one racial or ethnic group seem to be disciplined more severely than another for the same offenses? Are there allegations of racial favoritism?[26]

Alerts with respect to incidents at educational institutions is a significant part of the CRS alert activity. In fiscal year 1993 the total number of alerts in Michigan was 77. Fifteen (19.4 percent) involved education establishments, though none were concerned with school discipline. The issues included:

- employee layoffs,
- minority faculty members and minority-oriented classes (2),
- racial climate on campus, including fights (5),
- racial slurs by officials (2),
- bias in testing (2), and
- location of private schools (3).[27]

The total number of alerts in Michigan during fiscal year 1994 was 56. Eleven CRS alerts (19.6 percent) involved educational institutions, including three school discipline issues. These included:

- racial harassment/slurs (3),
- discipline after racial fights (3),
- curriculum and services (2),
- minority student-administration tensions (2), and
- athletic league districting.

In the past 5 years, the Kentwood school district is the only public school district mediation in Michigan which resulted in a signed letter of understanding among the involved parties.[28] Central to the issue in the district was the allegation of disparate discipline, particularly suspensions and expulsions, being given to black students, who allegedly were responding to racial taunts and intimidation from their white peers. The letter of understanding states:

> Following a series of student conflicts with racial overtones which culminated in the expulsion from school of two African American students, the Community Relations Service of the United States Department Of Justice convened a number of discussion sessions with representatives from the Kentwood school district in Michigan and students, parents and community representatives of two African American organizations.[29]

The Kentwood school district abuts Grand Rapids in the western part of the lower peninsula. The

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24 The Detroit field office is located at 211 W. Ford St., Suite 1404, Detroit, MI.

25 U.S. Department of Justice, Community Relations Service, *The Community Relations Service . . . Catalyst for Calm* (hereafter referred to as Catalyst for Calm), p. 5.

26 Ibid., p. 2.

27 Community Relations Service, U.S. Department of Justice, letter to Constance M. Davis, Mar. 23, 1995, Midwestern Regional Office files.

28 The Michigan field office in recent years also negotiated a written agreement at Olivet College after the school experienced racial strife on campus. In addition, the Michigan field office has been involved in other mediations involving school districts, which did not result in a formal written agreement.

TABLE 5-3
Poverty Rates for Students in the Kentwood Schools

	Number	Rate
White	512	8.3
African American	92	16.9
American Indian	16	42.1
Hispanic	25	11.6
Asian	6	2.7

Source: Midwestern Regional Office, USCCR, from State of Michigan data.

district's 7,231 students are predominantly nonminority; 6,124 (84 percent) are white, 544 (9 percent are African American), 215 (3 percent) are Hispanic, 225 (3 percent are Asian), and the remaining 123 students (2 percent) are American Indians and other ethnic minorities.

The district is relatively prosperous; just 651 (9 percent) of the district's 7,231 school children live in poverty compared with a national children poverty rate of 19.9 percent.[30] Of those children living below the poverty line, 15.1 percent of white children, 44.2 percent of black children, and 39.7 percent of Hispanic children are in poverty.[31] The number of black, Hispanic, and American Indian children dominate the children in poverty. Seventeen percent of the district's African American children, 42 percent of the American Indian children, and nearly 12 percent of the Hispanic children live in poverty (see table 5-3).

Sixteen separate issues were addressed in the letter of understanding, citing the concern of the minority community and promised actions by the school district. The issues included:

(1) allegations of the existence of white supremacy groups in the local school system,
(2) racial slurs directed at minority students,
(3) the enactment of a formal racial harassment policy,
(4) minority representation in the student council,
(5) need for a public assembly to address racial issues,
(6) the school district allowing STAR (Students Together Against Racism) to participate as a recognized campus group,
(7) recognition and awareness of the contributions of minorities to the American society in the curriculum,
(8) the authority and power of a dean of students,
(9) faculty and staff cultural sensitivity,
(10) minority role models,
(11) multicultural curriculum,
(12) race/ethnic diversity training for school employees,
(13) underutilization of minorities in the school district,

29 CRS Letter of Understanding.

30 State of Michigan, Information Center/DMB, Michigan School District 1989 Poverty/Relevant Children/Race & Hispanic Origin, p. 6.

31 U.S. Department of Commerce, Statistical Abstract of the United States, 1992, No. 718. Children Below The Poverty Level by Race and Hispanic Origin: 1970 to 1990, p. 456.

(14) the employment of a permanent director of multicultural development,
(15) school district community forums, distinct in format and procedures from school board meetings, at which members of the public can informally ask questions, express opinions, and receive information, and
(16) the amount of security at the schools.

The agreement never discussed the issue of discipline, suspensions, or the expulsions of minority students that precipitated the involvement of the CRS. Gaynett explained the reason for this. "CRS did not address the merits or lack of merits of the precipitating instance, the expulsion, because it was addressed through the appropriate internal school procedures."[32]

32 Gustavo Gaynette, telephone interview, Jan. 12, 1995.

Chapter 6

Discipline and Students with Disabilities

In enacting section 504 of the Rehabilitation Act of 1973,[1] the Congress recognized that many individuals with disabilities have been victims of discrimination. Harvey Burkhour of Michigan Protection and Advocacy testified that with the passage of the Americans with Disabilities Act (ADA) in 1990, Congress recognized that "individuals with disabilities are a discreet and insular minority who have been faced with restrictions and limitations [and] subjected to a history of purposeful unequal treatment."[2]

Section 504 of the Rehabilitation Act of 1973 was the first Federal civil rights law protecting the rights of individuals with disabilities. Education programs receiving Federal money are subject to this legislation, as the act provides:

> No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of . . . disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.[3]

Section 504 regulation applies to preschool, elementary, secondary, and adult education programs and activities that receive or benefit from Federal financial assistance and to recipients that operate, or that receive or benefit from Federal financial assistance and to recipients that operate, or that receive or benefit from Federal financial assistance.

For purposes of public educational services, a qualified person is an individual with a disability who is: (1) of an age during which persons without a disability are provided such services, (2) of any age during which it is mandatory under State law to provide such services to persons with disability, or (3) a person for whom a State is required to provide a free appropriate public education under the 1990 Individuals with Disabilities Education Act (IDEA).[4]

The term disability refers to anyone with a physical or mental impairment that substantially limits or restricts one or more major life activities. The term physical or mental impairment includes, but is not limited to: speech, hearing, visual and orthopedic impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, diabetes, heart disease, mental retardation, emotional illness, and specific learning disabilities such as perceptual handicaps, dyslexia, minimal brain dysfunction, and developmental aphasia.[5]

Each school district that operates a federally assisted public elementary or secondary education program must provide a free and appropriate public education to each qualified person in its jurisdiction, regardless of the nature or severity of the person's disability. The provision of an appropriate education is the provision of regular or special education and related aids and services such that:

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1 Public L. No. 93–112.

2 Testimony before the Michigan Advisory Committee to the U.S. Commission on Civil Rights, factfinding meetings, Aug. 3, 1994, Lansing, MI, and Aug. 4, 1994, Ann Arbor, MI, transcript p. 117 (hereafter referred to as Transcript).

3 Pub. L. No. 93–112, Sept. 26, 1973, 87 Stat. 355.

4 The IDEA provides for Federal financial assistance to States to ensure that each child with handicap(s) receives a free public education. Pub. L. No. 101–476, Oct. 30, 1990, 104 Stat. 1142.

5 U.S. Department of Education, Office for Civil Rights, *The Rights of Individuals with Handicaps Under Federal Law*, p.1.

- Educational services are designed to meet children with disabilities individual educational needs as adequately as the needs of nondisabled persons are met.
- Each child with a disability is educated with nondisabled children, the maximum extent appropriate to the needs of the child with the disability.
- Nondiscriminatory evaluation and placement procedures are established to guard against misclassification or misplacement of students, and a periodic reevaluation is conducted of students who have been provided special education or related services.
- Due process procedures are established so that parents and guardians can review educational records and challenge evaluation and placement decisions made with respect to their children, and can participate and be represented by counsel in any subsequent impartial hearing.[6]

Section 504 and IDEA prohibit public school districts from excluding handicapped persons, and directs public school districts to take into account the needs of the student in determining the aid, benefits, and placement of the child. Since disciplinary actions are often student placement decisions, the Federal laws mandate additional protections to prevent discrimination on the basis of disability when suspension or expulsion are considered.

The IDEA recognizes each student's parent as the primary advocate for that child in the school setting. Since not all children have a parent to function as an advocate, the IDEA mandates surrogate parents to fulfill this role for such children.[7] The public school district is responsible for identifying children who qualify for a surrogate parent and assigning one to the child.[8]

Although the IDEA was passed in 1990, the Michigan Department of Education did not recognize surrogate parents nor did it have any policy on this subject until August 1992. As Burkhour testified:

> [Michigan Protection and Advocacy] realized . . . back in 1987 that Michigan did not recognize, nor have available the provisions of surrogate parents to children. Mind you, this was 12 years after the Federal law was first passed. We proceeded to advocate to remedy this problem. Our efforts included both informal and formal efforts, including complaints to the Michigan Department of Education, U.S. Department of Education, Office of Special Education Programs, and the U.S. Department of Education, Office for Civil Rights. We also testified in various arenas with the Office of Special Education Programs about this problem. The Michigan Department of Education finally implemented a surrogate parent policy in February 1993, 18 years after it became mandated in Federal law, 6 years after our agency raised the issue.[9]

The Michigan State policy, which received approval from the U.S. Department of Education, Office of Special Education Programs, is limited, however, only to those children whose parent's rights have been terminated. This policy potentially leaves many children without the protection designed for them under the IDEA. According to Burkhour:

> The result of this practice is that many children who are state wards and who have a disability are not afforded the protection intended by IDEA, including in the area of suspension and expulsion. We believe that racial and ethnic minorities constitute a larger percentage of this population than is found in the general population, although we do not have the statistics to support our belief.[10]

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6 Ibid., p. 4.

7 34 CFR 300.514).

8 34 CFR 300.514 (b).

9 Transcript, pp. 121–22.

10 Harvey Burkour, prepared statement to the Michigan Advisory Committee to the USCCR, Ann Arbor, MI, Aug. 31, 1994, Midwestern Regional Office, USCCR, files.

> The outcome of this situation is obvious. The suspension and expulsion of minorities based on disability, including children who are racial/ethnic minorities is excessive because they are not afforded the protections of a Surrogate Parent as required by IDEA. The U.S. Supreme Court established some very specific requirements for suspension and expulsion of students with handicaps in *Honig v. Doe*, however it is crucial that the child have an effective advocate present to insure that those protections are followed.[11]

Mack Cody, Association for Community Advocacy, buttressed Burkhour's testimony. He stated that many of the students who are expelled or suspended from school have that discipline imposed on them as a result of the failure of the public school system to deliver appropriate special education needs. There is a "willingness on the part of educators to label certain behaviors as being 'conduct disorder' as opposed to emotional impairment when that behavior is exhibited by persons of color."[12]

Cody said evidence exists which suggests factors involved in a student's suspension or expulsion are factors for which appropriate services should have been received from the school system. Instead—similar to the allegations made by the juvenile court—school systems ignore their responsibilities to the disabled student and transfer children with whom they are having problems to the State's department of social services.

> In April of 1992, staff from the Department of Social Services for the State of Michigan, proposed that the Maxey Boys Training School which is essentially the highest level of delinquency facility in this State for male youths, proposed the creation of a special treatment unit consisting of 140 beds . . . and these will be primarily devoted to treatment of youths with emotional impairments, developmental disabilities, and other disabling conditions. So they clearly viewed a substantial portion of the population that they were serving as special need youth. . . .
>
> In July of 1992 at a forum in which he was announcing a new program to reduce the institutionalization of delinquent youth of this State, Dr. Gerald Miller, director of the Department of Social Services, attributed the over-institutionalization of delinquent youth in this State . . . largely to the failure of the public school systems in this State.
>
> The youth that are institutionalized in this State, particularly the delinquency facilities are primarily people of color. It does not take a sociologist to walk through Maxey Boys Training School to see that there is a disparity institutionalization of youth of color as opposed to young white men. . . . Again we would submit that many of these youths would not be in extended facilities had the public school systems faithfully undertaken their obligations under the IDEA and Section 504 of the Rehabilitation Act.[13]

The testimony and evidence regarding the disabled student and discipline, and previous testimony regarding minority discipline, prompted the Advisory Committee to examine the relationship between disability and discipline. The Advisory Committee sought to determine whether evidence exist showing students with disabilities receiving disproportionately more discipline than students without disabilities.

The Advisory Committee examined 1992 OCR school survey data of middle schools and high schools. The student enrollment, suspensions, number of disabled students, and the number of disabled students who received suspensions was calculated. Ninety-four middle and high schools in the survey had data for all four categories.[14]

The mean suspension rate of nondisabled students was 11.7 percent, or almost 12 students per 100. The mean suspension rate for the same schools of disabled students was 14.6 percent, a suspension rate of almost 15 students per 100 enrolled disabled students. In addition, a high and positive correlation (ρ=0.65) was found

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11 Ibid. See also Honig v. Doe, 484 U.S. 305 (1988).

12 Ibid., p. 132.

13 Ibid., pp. 128–30.

14 The 94 schools represented in the survey is not a random sample, and do not, therefore, represent a valid estimate of the State school population and discipline activity.

TABLE 6-1
Suspension Rates of Nondisabled Students and Disabled Students

	Nondisabled		Disabled	
	Rate	Max.	Rate	Max.
All schools in survey	11.6	49.7	14.6	68.2
Schools suspending disabled students	15.7	49.7	25.5	68.2

Source: Midwestern Regional Office, USCCR, from OCR survey data.

between a school's suspension rate of the nondisabled student population and its suspension rate of disabled students.

Of the 94 schools with disabled students, 41 schools suspended no disabled students. When these schools were excluded from the analysis, the effect of suspension activity on disabled students was more pronounced. In the group of 53 middle and high schools who did suspend disabled students, the nondisabled student body had a suspension rate of 15.7 percent, or almost 16 students per 100 enrolled. Disabled students were suspended at a rate of 25.5 percent, a rate of one in every four disabled students.

Both sets of statistics give preliminary indications that disabled students are being adversely affected by school suspension policies. Among all 94 schools, the highest suspension rate for nondisabled students was 49.7 percent, one suspension for every two students. The highest suspension rate found for disabled students was 68.2 percent, two suspensions for every three enrolled disabled students (see table 6-1).

Burkhour concluded with a summation of rights that are to be afforded students with disabilities with respect to discipline matters. In his opinion, there is a lack of enforcement of these protections by both the State and the Federal Government.

> How many . . . children have disabilities and are eligible for special education is uncertain. . . . Children with disabilities have been recognized as having additional protection in the areas of disciplinary actions in schools, particularly suspension and expulsion. These children are not to be suspended or expelled or otherwise removed from school as a disciplinary action for more than an accumulation of 10 days in a given school year. . . .
>
> They are also to be provided additional due process protection [which] includes the conducting of an individualized educational planning meeting if [the school] is considering removal of the child from school. And at that meeting three questions have to be answered. Is the child's disability properly identified? Are the programs and services that the child is receiving appropriate for the child? And thirdly, is the behavior that the child is going to be disciplined for, a manifestation or related in some way to [the child's] disability? . . . [15]
>
> In summation I think the problem is one of inadequate leadership and enforcement on the part of both State and Federal agencies who are responsible to handle these matters. . . . You have heard from other people testifying, including our own superintendent of public instruction, that our State board of education takes the position of advisory rather than mandating action and activities by local school districts, and it only serves to compound the problem.[16]

15 Transcript, pp. 123–24.

16 Ibid., pp. 126–27.

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Chapter 7

Addendum

Subsequent to the Advisory Committee's factfinding meetings in August 1994, three significant events have occurred with respect to school discipline. First, State legislation has been enacted expanding the powers of local school districts to suspend and expel students. Second, the Michigan Department of Education task force to study violence and vandalism in the schools completed its work and issued public findings and recommendations. Third, the Michigan Department of Civil Rights has initiated specific program activities to deal with disproportionate minority discipline.

1. State Legislation and School Discipline Act No. 328 of the Public Acts of 1994

Prior to passage of P.A. 1994, No. 328, authority to expel was limited to the district school board. Effective January 1, 1995, the authority to suspend or expel is expanded to other school officials and administrators as designated by the local school board.

Sec. 1311.(1) Subject to subsection (2), the school board, or the school district superintendent, a school building principal, or another school district official if designated by the school board, may authorize or order the suspension or expulsion from school of pupil guilty of gross misdemeanor or persistent disobedience if, in the judgment of the school board or its designee, as applicable, the interest of the school is served by the authorization or order. . . . [1]

In addition, Act No. 328 mandates expulsion for certain activities, removing local district discretion and latitude in those instances. Further, the expulsion under Act No. 328 in one district is applicable to all districts in the State (Act No. 328 is in appendix VII).

(2) If a pupil possesses in a weapon free school zone a weapon that constitutes a dangerous weapon, or commits arson in the school building or one the school grounds, or rapes someone in the building or on school grounds, the school board, or the designee of the school board as described in subsection (1) on behalf of the school board, shall expel the pupil from the school district permanently. . . . [2]

(3) If an individual is expelled pursuant to subsection (2), the expelling school district shall enter on the individual's permanent record that he or she has been expelled pursuant to subsection (2). Except if a school district operates or participates in a program appropriate for individuals expelled pursuant to subsection (2) and in its discretion admits the individual to that program, an individual expelled pursuant to subsection (2) is expelled from all public schools in this state and the officials of a school district shall not allow the individual to enroll in the school district unless the individual has been reinstated under subsection (5). . . . [3]

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1 P.A. 1994, No.328, §1311.(1).

2 Ibid., Sec. 1311.(2). The act further reads a pupil may be exonerated if he/she clearly and convincingly establishes at least 1 of the following: "(a) The object or instrument was not possessed by the pupil for use as a weapon, or for direct or indirect delivery to another person for use as a weapon. (b) The weapon was not knowingly possessed by the pupil. (c) The pupil did not know or have reason to know that the object or the instrument possessed by the pupil constituted a dangerous weapon. (d) The weapon was possessed by the pupil at the suggestion, request, direction of, or with the express permission of, school or police authorities."

3 Ibid., (3).

In contrast, the proposed Education Assurance Act, first introduced in 1991 by representative H. Lynn Jondahl, remains unenacted by the State legislature.[4] It addresses four elements regarding the issue of school discipline, emphasizing the need for schools to be responsive to student rights and the need for public education to provide alternative education programs rather than imposing suspension and expulsion, which puts children outside the control and influence of the school environment. Under the proposed legislation, each school district will:

(1) file an annual school exclusion report with the State board of education and the public on the numbers and percentage of students who are suspended or expelled,
(2) adopt a written policy on suspensions and expulsions that clearly explain students' rights and responsibilities,
(3) follow the due process regulations provided to ensure all suspended or expelled students are accorded fundamental fairness protection, and
(4) provide alternative education services for suspended or expelled students.

In the rationale for the act, Jondahl reported that, according to the 1986 OCR survey, Michigan ranks ninth in the Nation for the highest use of suspensions; the educational establishment disproportionately disciplines African American children, as black students are suspended at twice the rate as white children. Further, the current school system is not successful for a significant proportion of students. Only 75 percent of Michigan's children graduate from high school. The social costs of that failure can be observed in that nearly 80 percent of prison inmates in Michigan do not have a high school diploma, and the average annual cost for housing and maintaining one prisoner is $22,800. In contrast, the average cost per year to educate one child is $4,000.[5]

2. Michigan Department of Education Study Group on Violence and Vandalism

Responding to the increasing incidence of violence and vandalism in public schools and recognizing the educational duty of the State with respect to the children, in early 1994 the department of education formed a study group on violence and vandalism. The study group included individuals from both inside and outside the department.

On December 14, 1994, the study group adopted a series of recommendations that were submitted to the board of education in February 1995. The study group made recommendations to the board in (1) definitions, (2) data collection, (3) alternative education options, and (4) continued education for expelled students. The recommendations of the study group are:

1. We recommend that "THE DATA COLLECTED BY THE MICHIGAN DEPARTMENT OF EDUCATION REGARDING VIOLENCE AND VANDALISM ONLY PERTAIN TO THE DEPARTMENT MANDATE AS SET FORTH IN SECTION 158a IN THE STATE AID ACT AND ANY OTHER STATE OR FEDERAL LEGAL REQUIREMENTS." We recommend that the reporting system for Section 158a be presented to the Board in conjunction with this report.

2. We recommend to the state board of education for action the uniform violence and vandalism definitions to be used as guidelines by local school districts and as part of the data collection activities as mandated in Section 158a of the School Aid Act.

3. We recommend that the Michigan Department of Education take immediate action to convene a task force comprised of membership from state and local Departments of Social Services, Mental Health, juvenile and probate courts, and other appropriate agencies, designed to develop interagency agreements to provide alternative education options for suspended or expelled Michigan students.

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4 HB 5096, 1991. The proposed act and the rationale for its enactment were submitted as an exhibit by R. Zweifler.

5 HB 5096, The Education Assurance Act, *A Brief Overview*, p. 5.

4. We recommend to the State Board of Education that it take action to ensure that expelled students have continued education by forming a Subcommittee of practitioners from alternative educational and violence prevention programs, local education agencies, colleges and universities, state government, and private citizens to review the state of alternative education and violence prevention programs and, if necessary, make recommendations for improvement.

A. Adopt a policy defining the characteristics of effective options.
B. Collect and support the dissemination of information on local schools with model programs.
C. Compile and distribute a list of effective Michigan programs.
D. Develop statewide program standards in line with existing core curriculum, school improvement, and accreditation initiatives.
E. Review existing interagency agreements between public agencies which offer programs to insure that all students needing such programs may have access to and benefit from them.
F. Review public funding structures supporting current programs.
G. Compile data on student suspension, expulsion and referral to alternative and traditional educational settings.
H. Review local procedures for moving students between alternative and traditional educational settings.
I. Determine what programs exist for youth in the elementary grades, especially for students in kindergarten through grade six.[6]

3. Michigan Department of Civil Rights Special Program Initiatives

In light of the Advisory Committee factfinding meetings on school discipline, the Michigan Department of Civil Rights (MDCR) has undertaken several initiatives. In March 1995 nine department staff were provided cross training in order to be able to work more effectively between the MDCR's enforcement bureau and its office of community services, which provides education and training and promotes voluntary compliance with civil rights laws in Michigan.

The MDCR has assigned one staff member to coordinate a project on minority group suspensions and expulsions. This staff member has received training and attended institutes to learn of discipline programs, policies, and activities which have proven to be effective in several state systems and individual schools. Another assignment of this staff member has been to establish a formal liaison relationship between the MDCR and the Student Advocacy Center (SAC), and instruct SAC staff on how to identify situations which may fall within MDCR jurisdiction. The staff person is also initiating information gathering meetings with officials within the Michigan department of education and educators within school districts and at Michigan colleges and universities.[7]

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6 Michigan Department of Education, Violence and Vandalism Study Group, memorandum, Dec. 22, 1994. The complete memorandum is in app. VIII.

7 Nanette L. Reynolds, letter to Constance M. Davis, May 12, 1995.

Chapter 8

Findings and Recommendations

Education of the citizenry is vital in a democratic society. Understanding this, the State of Michigan encourages and provides for public education in its constitution, with article VIII devoted exclusively to education:

> Sec. 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.[1]

> Sec. 2. The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.[2]

Within the provision of free public elementary and secondary schools, it is clear that schools must provide an environment that is safe and conducive to learning and one in which order and decorum are maintained.

In this report, the Advisory Committee has examined discipline in Michigan public schools and equal education opportunity. In 14 of the 17 years since the inception of the Gallup Education Survey, student discipline has ranked as the single greatest public concern regarding our nation's schools.[3] There is a growing concern in Michigan, similar to sentiment found in other parts of the Nation, over increasing violence and vandalism in the schools.[4] School administrators have the right and the obligation to administer discipline. Traditionally this includes suspension and expulsion.

Recent legislation in the State emphasizes an increased use of punitive discipline, i.e., suspension and expulsion.[5] Recognizing that policies and practices of school discipline, particularly suspensions and expulsions, effect the general citizenry of this State, the Advisory Committee offers findings and recommendations regarding school discipline and equal education opportunity in four areas:

1. the disproportionate impact of discipline on minority students;
2. the Michigan Board of Education, the Michigan Department of Education, and the Michigan Department of Civil Rights;
3. the Office for Civil Rights, U.S. Department of Education, and the Community Relations Service, U.S. Department of Justice;
4. executive and legislative policies and out-of-school suspension and expulsion policies.

1. The Disproportionate Impact of Discipline on Minority Students

Finding 1(a). The Advisory Committee found that minority students are disproportionately disciplined in the public schools. Studies from the Law & Policy Institute and the Student Advocacy Center, as well as independent analysis by the

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1 Constitution of the State of Michigan, art. VIII, sec. 1.

2 Ibid., sec. 2.

3 See p. 2.

4 See: Pub. Act 328 (app. VII); Violence and Vandalism Study Group (app. VIII).

5 See: Beardmore comment, p. 5; Pub. Act 328, p. 97; and Mines cite, p. 59.

Advisory Committee support this finding.[6] This finding is further buttressed by the testimony of teachers, administrators, and researchers.[7] In addition, the Advisory Committee found a correlation between student disability and the imposition of discipline.[8]

A finding of disproportionate discipline, however, is not tantamount to a conclusion of unlawful discriminatory treatment by school districts. Discrimination is different treatment of individuals with similar circumstances and/or characteristics based in part on the group status of the individual, i.e., race or ethnicity.[9]

Even if it does not rise to the level of illegality, the disproportionate application of discipline to minority students is problematic for it has social ramifications for the community at large. A disproportionate application of discipline results in a disproportionate number of individuals from one group being alienated from educational opportunities. A disproportionate application of discipline excludes a disproportionate number of individuals from one group from a societal socialization experience.

Finding 1(b). The Advisory Committee found a positive relationship between the percentage of the student enrollment that is minority and the number of minority suspensions.[10] This suggests that an increasing minority student body in a school may create a different milieu that threatens at least some administrators and teachers.

Finding 1(c). The Advisory Committee found some minority student behavior contributes to discipline and punishment. This occurs, in part, because such behavior is sometimes at odds with behavior acceptable to the majority culture. Sullen looks, staring down the teacher, and other behavior acceptable in parts of some minority communities may result in discipline from teachers and administrators, particularly in schools and/or classrooms where such behavior is either simply regarded as unacceptable or not understood.[11]

Recommendation 1. Local school districts should collect discipline data, particularly suspension and expulsion data, by race, ethnicity, gender, and disability, and make such information public.[12] The efforts by the Lansing School District as noted in this report are an excellent example.

Each local school district should examine this discipline data and determine if minorities are disproportionately impacted. If minorities are suffering an adverse impact, local districts should learn the reasons for the imbalance, including:

- the relationship, if any, between discipline rates in school buildings and the racial/ethnic makeup of the building,
- the relationship, if any, between discipline rates and the incidence of poverty,
- the relationship, if any, between discipline rates and disability, and
- the relationship, if any, between discipline rates and low self-esteem and/or parental/adult involvement.

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6 See: Law & Policy Institute study, pp. 8–10; Advisory Committee analysis, pp. 13–14; Advisory Committee secondary school analysis, pp. 16–17; Student Advocacy Center survey data, pp. 17–18; Lansing school district data, p. 41; Ypsilanti school district data, p. 35.

7 See: Boles comment, p. 33; Francis comment, p. 39; Harner comment, p. 19; Gibson comment, p. 38; Mines comment, p. 59; Rhode comment, p. 35; Scott comment, pp. 20–21; Smith-Sambe cite, p. 38; Williams comment, p. 36.

8 See statistical data, pp. 67–68.

9 See: Advisory Committee distinction, p. 5; Mines comment, p. 59.

10 See: Law & Policy Institute study, pp. 8–10; Advisory Committee analysis, pp. 13–14.

11 See: Boles comment, p. 33; Cain comment, p. 43; Humes comment, p. 38; Laster comment, p. 41; Pollard comment, p. 33.

12 Kenneth Mines testified that there is no Federal authority compelling local districts to maintain discipline data by race and sex. (See Transcript, p. 108.)

2. Public Agencies of the State of Michigan

Michigan Board of Education and the Department of Education

Finding 2(a). In Michigan the local school districts have final responsibility for the fair and equitable administration of school discipline.[13] Nevertheless, the State board of education and the State department of education have the obligation to provide "leadership and general supervision over all public education."[14] This has not been provided with respect to the issue of disproportionate minority discipline.[15]

The Michigan Department of Education, under the auspices of the School Aid Act, is to collect information on suspensions and expulsions from all local school districts in a format that the department denotes. Such data collection has not occurred and is still not occurring. Without data there can be no analysis of the problem, no understanding, no corrective measures, and no improvement in the situation.[16]

Moreover, the collection of such data is not an onerous task for the department. The department's own study group force on violence and vandalism, in its recommendations, demonstrated the resolve and the capacity to collect data in this area.[17]

Recommendation 2(a). At a minimum the Michigan Department of Education must begin to collect data from the local school districts on suspensions and expulsions by race, national origin, gender, and disability. It is an unacceptable excuse that schools do not possess or will not make such data available.

Additionally, such data should be available to the public, so that independent analyses can be conducted, particularly by researchers associated with institutions of higher learning in the State.

Finding 2(b). The specific attention of local boards of education, superintendents, and principals to the administration of school discipline appears to reduce the total numbers of suspensions and expulsions imposed.[18]

Recommendation 2(b). The Michigan Department of Education should analyze school discipline data and should assist and work with districts experiencing disproportionately high suspension rates of minority students. As part of its responsibility to provide leadership in education for the State, the Michigan Board of Education and the Michigan Department of Education need to continue to inform and stress to local school districts the provisions and need for compliance with due process in the administration of discipline.[19] Such rights routinely are most at risk at the local level, and vigilance from State authorities in this regard can alleviate many of the problems.

Finding 2(c). There has been a decline in the funding from the State to the Michigan Department of Education in recent years.[20] The nonstaffing of the race relations and sex equity unit in the Michigan Department of Education is a loss of expert consulting and technical assistance at

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13 See Schiller comment, p. 27.

14 Constitution of the State of Michigan, Article VIII, § 3.

15 See: State authority, p. 45; State responsibility, p. 45; State data collection responsibility, p. 50; MI department of education race relations and sex equity unit closure, p. 50; MI department of education ombudsman unit, pp. 50–51; Schiller comments, p. 50; Cain comments, p. 42.

16 See: MI data collection authority, p. 50; Schiller comments, p. 50; Cain comments, p. 43.

17 See: Study Group on Violence and Vandalism, 4G, p. 71 and app. VIII.

18 See: Cain comments, p. 42; Farrell comments, p. 31 (and subsequent comments of Blair, p. 31, Foster, p. 32, and Rodriguez, p. 31); Goodsman comments, p. 36; Halik comments, p. 30.

19 See app. IV.

20 See: Profit comments, p. 49; Stanley comments, p. 48; report pp. 49–50; table 4.1, p. 49.

the State level in equal education opportunity.[21] It was a unit ideal for focusing attention on the issue of disproportionate minority discipline.

The creation by the Michigan Department of Education of the ombudsman unit to assist parents with general education concerns does provide parents and local school districts with some guidance in equal education opportunity. This unit, however, does not provide to local school districts and parents specific expertise and counseling in equal education opportunity.[22]

Recommendation 2(c). The Advisory Committee recommends that a unit within the Michigan Department of Education be given specific responsibility for: (1) collecting data on student discipline by race, and (2) monitoring school districts with disproportionate minority discipline. The existence of such a unit can serve both as a technical resource for local school districts in the issue of discipline and equal education opportunity as well as demonstrate to the public the State's commitment to equal education opportunity in this matter.

Michigan Department of Civil Rights

Finding 2(d). The Michigan Department of Civil Rights is the State agency with the authority and responsibility to investigate discrimination in the administration of school discipline. The department accepts referrals from both the department of education and individual complainants.[23]

Complaints alleging discrimination in the administration of discipline have been a very small part of the department's case load in recent years.[24] The department has been aware of the problem of disproportionate discipline in local school districts since the late sixties and did a preliminary study of the issue at that time.[25] There has been no followup study by the department.

Recommendation 2(d). The Michigan Department of Civil Rights has begun collaboration efforts with the State department of education and local school districts to address problems of disproportionate discipline. The Committee commends the department for these initiatives and also recommends that the department of civil rights obtain data on disproportionate minority discipline from the State department of education and/or the Federal government and do district wide compliance reviews of student discipline.

In addition, it is recommended that a followup study to its 1968 study on school discipline be conducted. Such a study would again focus attention on this issue within the State and update the previous study.

3. The Federal Government

Office for Civil Rights, U.S. Department of Education

Finding 3(a). The Office for Civil Rights (OCR) is the Federal agency with responsibility and authority to examine allegations of discrimination in the administration of discipline. It may conduct an investigation upon the receipt of a complaint or on its own initiative.[26]

For fiscal year 1992–93, OCR made the school discipline issue a priority.[27] However, in the last 4 years, no review of a Michigan school district in the area of discipline has been conducted, while the OCR district office with responsibility for Michigan has conducted three such reviews in its local Ohio area.[28]

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21 See: p. 50; Profit comment, p. 49; Stanley comment, p. 48.

22 See pp. 50–51.

23 See p. 51.

24 See p. 52.

25 See: pp. 53–54; app. V.

26 See pp. 56–57.

27 See p. 59.

28 See p. 62.

OCR survey data shows disproportionate discipline in the Michigan public school districts. The schools in the survey meted out 20,702 suspensions during the 1991–92 school year. White students, who are 82.7 percent of the total sample enrollment, received 68.4 percent of the suspensions. Minority students, who are 17.3 percent of the total sample enrollment, received 31.6 percent of all suspensions.[29]

Recommendation 3(a). The Advisory Committee recommends that OCR examine its school discipline survey data and select at least one school district in Michigan for a compliance review of its disciplinary practices. One compliance review of a local district would elevate and bring attention to this issue.

Finding 3(b). The data collected by the OCR is survey data. It does not solicit information from all the school districts in the State.[30] In conjunction with this, the data that is collected under the survey is not routinely used by the department to denote districts with disproportionate discipline, or to find other relationships between discipline and race/ethnicity.[31]

Recommendation 3(b). The OCR should expand its survey to include all school districts in the State. This would compel local school district compliance with existing State law concerning the collection of discipline data as well as providing OCR with a complete and valid data base of discipline information.

In conjunction with this effort, district discipline rates should be reviewed for disproportionate impact with respect to minority and/or disabled students. Those districts with adverse impact should be notified. This would alert school districts to potential problems as well as put school districts on notice that the administration of discipline is an important equal education issue to the agency.

Finding 3(c). The OCR and its mission do not appear to be well-known to the public. Many parents seem unfamiliar with the agency and its role in ensuring equal education opportunity for their children. This has the effect of making the OCR complaint process unavailable to parents and guardians.[32]

Recommendation 3(c). There is a need for the OCR to increase and/or improve its outreach so that more of the community is aware of its existence and mission.

Community Relations Service, U.S. Department of Justice

Finding 3(d). The Community Relations Service (CRS) mediates conflict and is alerted to community racial problems through "alerts" gathered from news media reports, staff observations, or through requests for assistance from local officials or citizens.[33] The agency can assist local schools in resolving disputes relating to alleged discriminatory practices based on race, color, or national origin. The CRS district office in Michigan recently has successfully mediated a racial conflict prompted by allegations of discrimination in the administration of school discipline.[34]

The CRS does not have the resources, the authority, or the mission to investigate allegations or suspicions of disparate treatment of minorities with respect to the administration of school discipline. Nevertheless, the Community Relations Service (CRS) can provide a unique service in ensuring equal education opportunity in the area of school discipline. As a juvenile court judge told the Advisory Committee, children are particularly sensitive to issues of fairness and often need some type of neutral forum in which to tell their

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29 See: p. 14; p. 59.

30 See p. 11.

31 See p. 59.

32 See Mines comment, p. 60.

33 See pp. 62–63.

34 See p. 63.

story and possibly get some justice.[35] The CRS can provide that forum.

Recommendation 3(d). The Advisory Committee recommends that the CRS increase its liaison activities with local school districts and other local, State, and Federal agencies. Specifically in the area of school discipline and other related school issues, the agency should, at a minimum, have an active cooperative relationship with the State's department of civil rights and department of education and the Office for Civil Rights, U.S. Department of Education. Such cooperation should include informing agencies of its alerts, and offering mediation service.

4. State Executive and Legislative Policies and Out-of-School Suspension and Expulsion Practices

Finding 4(a). The Advisory Committee notes that recent State legislation, P.A. 1994, No. 328, requires expulsion for certain actions and expands the scope of authority for suspension decisions.[36]

The Advisory Committee found sentiment that the employment of out-of-school suspension and expulsion practices may not be an effective or efficient disciplinary device for producing future citizens who are knowledgeable, productive, socialized, and responsible. Such opinions came from the superintendent of public instruction, school administrators, representatives from the juvenile court system, and educators. Suspensions and expulsions remove children from the learning and socializing experience of public education—and often this is the only such process available to the child.[37]

The prisons of Michigan are filled with inmates who lack a high school education. Estimates of the number of prisoners without a high school diploma ranged from 50 percent to 80 percent.[38] The average cost of maintaining one prisoner for 1 year is $22,800. The average cost of educating one student for 1 year is $4,000.[39]

Recommendation 4(a)(1). The Advisory Committee believes recent legislation mandating expulsions for certain actions and expanding the authority for discipline decisions will make a bad situation worse. If school districts simply suspend and expel students, without offering genuine alternatives, we only delay, at a much greater cost, dealing with our troubled youth. The Advisory Committee believes it to be cost effective and more productive for the State to give serious assistance to local school districts in providing alternative education opportunities.

Recommendation 4(a)(2). Elected officials at the State and local level, government officials, school administrators, educators, juvenile court judges and administrators, parents, and other concerned parties should address the prospect of a statewide mechanism for accountability in the administration of discipline in schools.

In addition, such individuals and groups should make public a debate on the philosophy of school discipline, and whether different philosophies of discipline further the long-term interests of the society at large, or short term interests. Evidence and experiences in particular schools and school districts should be the focus of attention regarding attempts to address underlying issues.

Finally, the Advisory Committee strongly urges all school districts in their administration of discipline to have: (1) a districtwide philosophy of discipline, (2) internal district controls assuring that the discipline code is enforced uniformly, and (3) a specific plan of assistance for the affected student.

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35 Francis testimony, transcript, p. 41.

36 See p. 70.

37 See Schiller comment, p. 42; also note: Bates comment, p. 8; Beardmore comment, p. 54; Francis comment, p. 39; Halik comment, p. 30; Marvellis comments, pp. 40–41; Pollard comment, p. 33; Rhode comment, p. 35.

38 See Cooper comments, pp. 53–54.

39 See p. 54.

Finding 4(b). Recent school financing reform has closed the per capita spending disparity among school districts, but disparities have not been eliminated.[40] The Advisory Committee found a connection between poverty and discipline, which makes the issue of school financing relevant to the issue of disproportionate discipline.[41]

40 See: p. 44; Profit comments, p. 44.

41 See: Advisory Committee statistical data, pp. 14, 15, and 16; Brookover comments, p. 6; Cain comments, pp. 16 and 42; and Vergon comments, p. 16.

Appendix I

Presenters at the Factfinding Meetings

Session 1
Lansing, Michigan
Wednesday, August 3, 1994

Robert E. Schiller, Michigan Department of Education
Roberta A. Stanley, Michigan Department of Education
Dorothy Beardmore, Michigan Board of Education
Wilbur Brookover, Michigan State University
Ruth Zweifler, Student Advocacy Center
Kenneth Mines, U.S. Department of Education
Michael Gallagher, U.S. Department of Education
Harry Lawrence, U.S. Department of Education
Harvey Buckhour, Michigan Protection and Advocacy
Mack Cody, Michigan Protection and Advocacy
Janet Cooper, Michigan Department of Civil Rights
Richard J. Halik, Lansing School District
Patricia Farrell, Lansing School District
Santanino Rodriguez, Lansing School District
Ann Blair, Lansing School District
Michael Foster, Lansing School District
Ricardo Martinez, MAP
Larry Scott, Parent Support Group
Wilson Caldwell, Lansing NAACP
John Pollard, Black Child & Family Institute
Vernadine Lake
Joyce Hartfield
LaQuan Hartfield
Ann Green

Session 2
Ann Arbor, Michigan
Thursday, August 4, 1994

Kirk Profit, Michigan House of Representatives
Duke Williams, Ypsilanti School District
John Fulton, Ypsilanti School District
Bill Snyder, Ypsilanti School District
Tilani Smith-Sambe, Ypsilanti School District
Linda Crabtree, Ypsilanti School District Board of Education
Marilyn Goodsman, Ypsilanti School District Board of Education
Herman Humes, Ypsilanti Education Association
Mary Gibson, Ypsilanti Education Association
Dave Johnson, Ypsilanti Education Association
Percy Bates, Programs for Education Opportunity
Charles Vergon, Law and Policy Institute
Nancy Francis, Probate Judge, Washentaw County
Tim Marvellis, Washentaw County
Nathaniel Reid, COPE
Margaret Harner, Teachers Shop & Learn Center
Eugene Cain, Highland Park School District
Sharon Baskerville, principal, Ann Arbor School District
Pam Beatty Cupid
John Rohde
Leonia McKaye
Vernita Wilson
Jeanetta Jennings

Appendix II
Michigan Public School Enrollment by District

	White	Black	Amind	Asian	Other	Hispanic
Michigan	1,254,734	275,386	13,988	20,933	21,675	47,265
School district:						
Battle Creek	6,095	2,386	30	68	180	248
Bessemer City	579	0	6	0	0	4
Harbor Beach	882	0	8	0	5	10
Bloomfield #1 SD	11	0	0	3	7	7
Bloomfield Township	8	0	0	0	0	0
Sigel Twp School 3	26	0	0	0	0	0
Sigel Twp School 4	12	0	0	0	0	0
St Ignace Area	519	0	311	0	0	0
Marquette Area	4,660	13	141	53	8	17
Ewen-Trout Creek	555	0	10	0	2	2
Wayne-Westland	14,700	1,259	132	116	71	405
Crestwood	2,494	9	6	79	19	75
Bad Axe	1,465	4	0	6	7	22
L'Anse	848	0	154	1	0	4
Superior Central	449	2	14	0	2	5
Adams Township	447	0	0	0	0	0
Addison	1,133	0	8	1	11	46
Adrian City	4,663	100	35	34	536	875
Airport Community	2,512	149	23	0	0	26
Akron Fairgrove	627	0	3	3	2	27
Alba	168	0	21	0	0	0
Albion	1,371	824	15	0	89	181
Alcon	1,032	2	10	0	0	2
Algonac	2,730	0	17	12	0	30
Allegan	2,603	102	6	13	4	30
Allen Park	2,573	0	7	0	28	153
Allendale	1,056	0	0	17	0	25
Alma	2,711	4	0	18	87	229
Almont	1,128	0	10	7	21	21
Alpena	5,806	0	20	23	5	29
Anchor Bay	4,262	115	0	13	34	87
Ann Arbor	10,254	2,344	73	1,161	147	357
Arenac Eastern	503	0	6	0	0	14
Armada	1,785	2	0	1	11	30
Arvon Township	36	0	6	0	0	0
Ashley	366	0	0	0	11	11
Athens	911	0	3	5	7	35
Atherton	1,108	48	12	7	6	13
Atlanta	553	0	8	2	6	10
Au Gres Sims	553	0	9	2	0	3
Autrain-Onota	117	0	6	0	0	0
Avondale	2,526	178	17	128	4	29
Baldwin	695	281	5	0	1	5
Bangor	1,361	160	25	1	135	189
Bangor	2,654	12	0	7	80	127
Bangor Twp 8	15	0	0	0	0	0
Baraga	487	0	121	0	0	4
Bark River Harris	619	0	65	0	0	0

Appendix II (continued)
Michigan Public School Enrollment by District

	White	Black	Amind	Asian	Other	Hispanic
Bath	1,187	0	0	0	14	33
Bay City	10,588	226	88	112	380	760
Beal City	421	0	18	0	0	0
Bear Lake	88	0	0	4	2	6
Beaver Island	83	0	2	0	0	0
Beaverton Rural	1,699	0	10	0	9	21
Bedford	4,601	0	0	16	10	37
Beecher	1,050	2,209	33	0	130	125
Belding	2,172	23	5	4	3	21
Bellaire	535	0	8	3	0	0
Bellevue	1,159	7	5	8	0	13
Bendle	1,495	0	40	0	46	74
Bently	1,039	14	19	8	14	14
Benton Harbor	1,254	5,973	48	0	32	71
Benzie County	1,533	11	46	11	7	42
Berkley City	4,364	114	11	56	0	39
Berlin Twp 3	42	0	0	0	0	0
Berrien Springs	1,244	193	4	21	40	112
Big Bay De Noc	400	1	23	3	0	0
Big Jackson	86	0	2	0	13	13
Big Rapids	1,961	77	13	31	4	42
Birch Run Area	1,864	0	0	3	32	64
Birmingham City	6,915	104	14	324	14	88
Blissfield Community	1,409	0	19	0	24	65
Bloomfield Hills	4,647	191	0	799	27	111
Bloomingdale	1,048	132	20	2	35	82
Bois Blanc Pines	8	0	0	0	0	0
Boyne City	1,280	0	21	2	6	11
Boyne Falls	266	0	8	2	0	3
Brandon	2,791	0	6	41	18	76
Brandywine	1,433	80	7	19	0	11
Breckenridge	1,191	0	0	0	9	76
Breitung Twp	2,062	0	27	22	0	18
Bridgeport-Spaulding	2,289	1,040	14	0	279	406
Bridgman	887	0	2	2	0	4
Brighton Area	5,330	0	43	46	23	80
Brimley Area	302	2	257	0	0	0
Britton Macon	411	0	0	0	0	4
Bronson	1,523	20	2	2	22	54
Columbia	1,638	0	25	0	0	14
Brown City	998	0	12	6	2	17
Flat Rock	1,620	20	0	20	17	47
Buchanan	1,894	163	18	7	0	51
Buckley	384	0	4	0	0	0
Buena Vista	212	1310	28	10	156	166
Bullock Creek	1,582	0	15	0	40	55
Tahquamenon	1,217	0	180	0	0	0
Burr Oak	382	0	0	0	0	0
Burt Township	89	0	3	0	0	0
Byron Area	1,141	0	16	0	9	9

Appendix II (continued)
Michigan Public School Enrollment by District

	White	Black	Amind	Asian	Other	Hispanic
Byron Center	1,541	5	13	5	0	6
Cadillac Area	3,554	22	32	45	0	30
Caledonia	2,432	48	7	56	7	19
Calumet	1,620	3	2	0	0	25
Camden Frontier	650	2	2	2	0	5
Capac	1,274	2	3	10	35	46
Carman-Ainsworth	4,644	714	96	175	24	96
Carney Nadeau	275	0	4	0	0	0
Caro	2,143	0	32	0	27	105
Carrollton	769	87	0	72	73	105
Carson City Crystal	1,367	28	33	3	7	51
Carsonville-Port Sanilac S/DG	705	0	1	14	0	31
Caseville	209	0	0	0	0	9
Cass City	1,562	0	18	0	7	43
Cassopolis	1,075	438	21	21	22	15
Cedar Springs	2,534	5	19	0	25	32
Center Line	2,546	23	55	28	0	31
Central Lake	477	6	6	0	0	0
Central Montcalm	2,168	1	26	6	12	49
Centreville	930	27	6	29	0	0
Charlevoix	1,229	13	108	4	2	2
Charlotte	3,427	7	24	25	14	119
Chassell Twp	306	0	0	0	0	0
Cheboygan	2,284	2	53	6	0	15
Chelsea	2,420	22	2	16	8	21
Chesaning Union	2,362	44	36	9	58	97
Chippewa Hills	2,330	55	98	8	37	49
Chippewa Valley	8,816	15	34	76	25	114
Church School	41	0	0	0	0	0
Clare Public	1,375	2	11	6	0	6
Clarenceville	1,563	0	9	17	43	95
Clarkston Comm	5,390	38	5	9	15	66
Clawson City	1,962	3	17	25	9	33
Climax Scott	660	19	0	0	0	7
Clinton	1,201	0	0	0	0	13
Clintondale	1,674	49	44	0	0	22
Clio Area School	4,472	71	0	35	0	21
Coldwater	3,556	19	4	27	7	21
Coleman Community	1,138	1	10	0	0	2
Colfax Township 1F	47	0	0	0	0	1
Coloma	1,737	5	6	8	22	25
Colon	989	3	0	2	0	0
Fairview Area	387	0	0	2	2	2
Comstock	2,204	132	4	24	24	56
Comstock Park	1,349	0	4	34	5	2
Concord	1,033	5	8	0	0	11
Constantine	1,628	18	10	6	0	2
Coopersville	2,042	0	16	12	20	35
Corunna	1,913	2	2	19	0	30
Covert	215	428	18	0	0	0

Appendix II (continued)
Michigan Public School Enrollment by District

	White	Black	Amind	Asian	Other	Hispanic
Crawford Ausable	1,930	17	23	8	0	22
Cross Village	26	0	17	0	2	2
Croswell Lexington	2,184	7	8	10	52	95
Forest Park	820	0	5	2	2	11
Dansville AG	852	0	2	18	27	41
Davison	4,407	31	34	22	10	72
Dewitt	1,616	7	0	0	0	44
Dearborn City	12,623	77	113	258	73	506
Dearborn Hgts No.7	2,268	0	0	12	0	62
Westwood	1,158	1,158	23	41	81	126
Decatur	1,049	67	53	4	9	46
Houghton Portage	1,078	0	3	25	0	13
Deckerville	979	0	4	0	34	83
Deerfield	337	0	2	0	5	13
Delton Kellogg	2,114	0	0	2	18	18
Detour Area	284	0	27	0	0	0
Detroit City	19,410	157,114	564	1,401	3,323	5,523
Dexter Community	2,351	5	14	2	4	138
Dowagiac Union	2,471	305	93	7	72	161
Dryden	798	0	0	0	0	2
Dundee	1,337	28	14	0	13	34
Durand Area	2,336	6	9	0	21	33
East China Twp	4,662	0	0	9	0	52
East Detroit	6,143	4	68	88	8	60
East Grand Rapids	2,223	8	0	54	0	8
East Jackson	1,336	22	0	0	14	20
East Jordan	1,102	0	20	2	6	24
East Lansing	3,241	475	44	407	93	93
Easton Twp 6	78	0	0	0	0	0
Eaton Rapids	2,839	2	5	29	32	114
Eau Claire	505	14	10	0	18	34
Ecorse Public	1,042	914	58	8	63	189
Montabella	1,317	0	20	6	16	35
Edwardsburg	1,716	6	5	10	5	30
Elk Rapids	1,195	0	32	0	2	18
Elkton Pigeon Bayport	1,454	2	0	7	3	40
Ellsworth	280	8	3	0	0	0
Elm River Township	42	0	0	0	0	0
Escanaba Area	3,882	13	147	17	14	27
Essexville Hampton	1,597	32	0	14	0	143
Evart Public	1,190	15	11	5	4	12
Excelsior District #1	64	0	2	0	0	0
Falmouth Elem Schl	224	0	2	0	0	0
Farmington	10,100	151	14	501	62	127
Farwell	1,552	8	11	0	4	17
Fennville	1,334	17	11	7	134	324
Fenton Area	2,828	21	21	28	22	32
Ferndale City	3,876	514	55	43	26	110
Ferry	227	0	12	0	0	0
Fitzgerald	2,723	74	34	49	6	47

Appendix II (continued)
Michigan Public School Enrollment by District

	White	Black	Amind	Asian	Other	Hispanic
Flint City	9,403	17,712	193	114	517	983
Flushing	3,638	73	33	31	71	76
Forest Area	695	7	6	6	0	6
Forest Hills	5,362	70	13	99	2	39
Gwinn Area	2,765	103	51	71	25	79
Fowler	509	0	0	0	0	0
Fowlerville	2,051	0	67	2	0	29
Frankenmuth	1,182	0	0	2	0	15
Frankfort	495	0	15	8	0	14
Fraser	4,590	12	26	64	6	27
Freeland	1,143	4	14	8	23	55
Freesoil	220	0	0	0	0	0
Fremont	2,240	7	5	9	38	92
Fruitport	2,910	14	37	23	46	103
Fulton	847	0	11	5	4	14
Galesburg Augusta	1,214	0	27	4	2	2
Galien Township	603	2	2	0	0	0
Ganges No. 4	24	0	0	0	8	8
Garden City	5,298	62	41	60	0	61
Engadine Consolidated	336	0	46	0	0	2
Gaylord	2,697	0	12	20	3	12
Genesee	825	12	0	0	8	45
Gerrish Higgins	1,699	0	31	13	0	23
Gibraltar	3,416	0	36	36	37	106
Gladstone	1,961	0	44	28	0	5
Gladwin	1,875	8	11	4	2	4
Glen Lake	638	0	2	4	0	10
Gobles	1,047	26	2	2	6	18
Godfrey Lee	980	6	0	0	65	98
Godwin Heights	1,881	86	9	45	73	128
Goodrich	1,489	6	2	31	0	37
Grand Blanc	5,030	236	55	141	50	171
Grand Haven	5,418	19	59	21	86	106
Grand Ledge	4,449	44	34	69	21	106
Grand Rapids City	13,750	9,386	399	418	1,411	2,168
Grandville	4,213	46	24	116	82	99
Grant	1,713	5	16	4	106	141
Grant Township	18	0	0	0	0	0
Grass Lake	823	0	4	0	2	5
Greenville	3,784	0	13	6	16	94
Grosse Ile Twnshp	1,709	0	0	90	0	19
Gull Lake	2,476	63	8	8	0	12
Hagar Township 6	67	0	6	0	0	0
Hale Area	748	0	3	0	0	0
Hamilton	1,948	0	0	81	49	49
Hamtramck	1,869	507	16	24	0	49
Hancock	992	14	15	0	0	0
Hanover Horton	1,222	29	0	0	0	2
Harbor Springs	828	0	27	0	2	5
Harper Creek	2,136	0	42	8	0	35

Appendix II (continued)
Michigan Public School Enrollment by District

	White	Black	Amind	Asian	Other	Hispanic
City of Harper Woods	927	18	0	0	0	15
Harrison	1,858	3	0	3	7	19
Hart	1,205	0	20	3	125	201
Hartford	1,338	2	40	0	91	118
Hartland Consolidated	2,765	0	21	19	10	31
Haslett	1,963	34	0	46	51	57
Hastings	3,204	3	15	13	6	24
Hazel Park City	4,696	11	74	136	0	47
Hemlock	1,634	0	0	3	25	32
Hesperia	1,020	5	4	4	19	43
Highland Park City	63	3,888	0	5	17	0
Hillman	643	0	0	2	0	7
Hillsdale	2,502	10	40	43	40	69
Holland City	4,142	86	35	233	701	1,280
Holly Area	3,779	53	27	29	105	131
Holt	4,184	102	54	27	76	152
Holton	1,190	0	5	0	0	7
Homer Community	997	2	2	0	11	24
Hopkins	1,163	0	0	11	21	21
Houghton Lake	1,608	36	9	0	0	12
Howell	5,205	0	122	26	23	67
Hudson	1,173	3	0	19	19	83
Hudsonville	3,267	4	0	40	0	30
Huron	1,859	12	0	13	9	24
Huron Valley	9,373	6	78	20	12	140
Ida	1,648	6	0	0	0	14
Imlay City	1,779	2	2	30	65	133
Inkster City	205	2,436	0	14	7	7
Inland Lakes	707	0	36	3	0	3
Ionia	2,770	76	19	32	43	234
Ionia Twp Dis. 2	48	0	0	0	0	0
Ionia Twp Dis. 5	33	0	0	0	0	0
Iron Mountain City	1,478	0	0	0	13	21
Ironwood Area	1,554	11	5	3	0	28
Ishpeming	1,325	0	4	2	0	0
Ithaca	1,653	0	9	4	62	115
Jackson	6,352	1,590	44	73	167	263
Jefferson-Monroe Cnty	2,641	17	14	0	18	41
Jenison	4,189	8	47	68	23	68
Johannesburg-Lewiston	682	0	6	0	7	9
Jonesville	1,019	0	3	0	5	5
Kalamazoo City	8,065	4,271	106	259	357	493
Kaleva Norman Dickson	760	0	15	3	5	7
Kalkaska	2,123	3	44	4	10	26
Kearsley	3,078	27	18	23	32	93
Kelloggsville	1,746	95	19	65	31	80
Kenowa Hills	2,462	11	45	13	14	31
Kent City	1,394	6	0	4	5	34
Kentwood	6,124	544	38	225	85	215
Kingsley Area	1,026	0	18	0	0	20

Appendix II (continued)
Michigan Public School Enrollment by District

	White	Black	Amind	Asian	Other	Hispanic
Kingston	679	63	7	2	6	15
Laingsburg	1,008	0	0	0	4	36
Lake City	1,182	0	12	2	4	10
Lake Fenton	1,421	0	13	0	0	0
Lake Linden Hubbell	745	0	0	15	0	5
Lake Orion	4,700	24	6	11	58	182
Lakeshore	2,606	12	13	41	0	54
Lakeview	2,901	94	0	73	0	40
Lakeview Area	2,704	0	18	38	19	62
Lakeview Community	1,681	8	20	6	32	57
Lakeville Comm School	2,689	10	24	5	24	49
Lakewood	2,604	10	15	21	26	70
Lamphere	1,953	52	54	86	39	47
Lansing	13,031	5,969	305	515	1,736	2,789
Lapeer	7,393	20	51	80	75	204
Lawrence	635	5	10	0	83	111
Lawton	1,033	14	9	6	22	60
Leland	367	0	0	3	0	0
Les Cheneaux	288	0	62	3	11	11
Leslie	1,470	1	2	2	8	19
Lincoln Cons	2,664	411	3	37	0	27
Lincoln Park	5,618	23	75	0	77	279
Linden	2,401	0	14	0	0	25
Litchfield	594	2	11	0	0	2
Littlefield	499	6	11	0	0	0
Livonia	16,078	92	26	321	44	287
L'Anse Creuse	9,260	837	20	161	21	203
Lowell	2,917	10	2	46	6	28
Ludington	2,513	15	43	11	30	58
Mackinac Island	44	0	14	0	0	0
Mackinaw City	205	0	18	0	0	0
Madison	2,426	0	30	23	11	30
Madison District	542	0	0	0	124	190
Mancelona	948	0	13	0	2	3
Manchester	1,089	4	3	15	3	9
Manistee	1,881	5	39	4	45	82
Manistique	1,283	0	130	5	0	17
Manton Consolidated	823	0	16	3	0	13
Maple Valley	1,590	0	19	2	4	2
Marcellus	878	18	7	0	2	14
Marenisco	130	20	2	0	0	2
Marion	721	1	19	0	2	6
Mar Lee	351	0	0	2	17	22
Marlette	1,501	4	19	0	8	35
Marshall	2,334	29	0	6	15	42
Martin	856	2	6	6	3	3
Marysville	2,105	0	17	44	0	6
Mason	3,477	0	0	26	47	70
Mason Cons	1,532	0	19	10	25	117
Mason County Central	1,327	3	10	7	20	43

Appendix II (continued)
Michigan Public School Enrollment by District

	White	Black	Amind	Asian	Other	Hispanic
Mason County Eastern	560	7	6	0	15	19
Mattawan Cons	2,168	20	66	17	15	39
Mayville	1,320	3	10	16	0	3
McBain Rural Agr	790	0	0	2	5	5
Melvindale Allen Park	2,064	50	0	0	70	159
Memphis	816	25	0	0	0	9
Mendon	615	37	0	0	0	4
Menominee Area	2,332	6	18	16	0	10
Meridian	1,810	4	7	4	11	20
Merrill	1,101	6	2	4	5	35
Mesick Consolidated	757	0	14	2	2	6
Michigan Center	1,375	0	0	0	20	56
Midland	8,148	110	62	163	62	140
Mid Peninsula	416	0	12	0	0	0
Milan Area	1,793	138	0	0	39	64
Millington	1,961	0	9	7	0	25
Mio Au Sable	761	0	9	1	3	29
Mona Shores	3,396	39	16	46	0	98
Monroe	7,548	324	25	47	108	258
Montague	1,502	0	29	29	38	76
Montrose	1,731	59	14	0	35	41
Moran Township	2	0	44	1	0	2
Morenci	1,032	2	2	2	13	47
Morley Stanwood	1,392	9	34	0	1	28
Morrice	762	0	7	0	3	15
Mt Clemens	1,066	505	24	0	24	12
Mt Morris Cons	2,836	155	78	28	8	60
Mt Pleasant	3,333	78	229	46	27	70
Munising	899	0	81	2	0	7
Muskegon	3,978	2,672	165	0	170	344
Muskegon Heights SD	394	2,359	38	8	13	62
Napoleon	1,461	0	0	7	0	6
Negaunee	1,654	5	23	3	0	23
New Buffalo	634	61	0	0	0	43
New Haven	837	193	39	2	5	32
New Lothrop	1,030	0	10	0	12	14
Newaygo	1,381	0	10	3	21	37
N.I.C.E.	1,811	0	11	0	0	0
Niles	3,731	414	51	25	37	112
North Adams	621	0	2	0	0	10
North Branch	2,100	0	6	0	7	22
Grosse Pointe	7,217	31	13	211	0	152
North Huron	711	7	0	0	0	0
North Muskegon	605	0	0	6	0	0
Northport	181	0	23	0	5	22
Northview	2,839	57	18	0	34	52
Northville	3,845	70	0	122	3	50
Northwest	3,098	59	5	23	2	27
Norway Vulcan	827	0	11	0	0	3
Nottawa	292	9	0	0	0	0

Appendix II (continued)
Michigan Public School Enrollment by District

	White	Black	Amind	Asian	Other	Hispanic
Novi	3,537	38	24	177	32	47
Oak Park	974	2,557	0	61	9	5
Oakridge	1,644	24	11	10	0	56
Okemos	3,450	164	8	275	29	78
Olivet	1,160	0	2	0	23	49
Onaway	974	0	8	2	0	7
Oneida District 3	15	0	0	0	0	0
Onekama Consolidated	427	0	8	0	4	11
Onsted	1,515	5	8	2	0	16
Ontonagon	859	0	27	1	0	12
Orchard View	2,272	28	30	0	13	79
Orleans Twp Dist 10	24	0	0	0	0	0
Osceola Twp	335	5	8	4	0	0
Oscoda	2,903	83	46	38	6	31
Otsego	2,296	9	35	2	6	6
Ovid Elsie	1,680	2	6	7	18	52
Owendale Gagetown	292	3	11	3	14	20
Owosso	4,627	0	30	16	57	88
Oxford	2,870	20	6	16	6	28
Palo	233	7	0	0	0	6
Parchment	1,392	106	12	5	6	63
Paw Paw	1,842	15	4	0	35	83
Peck	486	0	7	0	7	10
Pellston	690	0	40	0	6	10
Pennfield	1,496	57	6	20	0	25
Pentwater	369	0	7	0	16	39
Perry	1,912	17	41	4	0	15
Petoskey	2,106	4	38	50	7	16
Pewamo Westphalia	705	0	0	3	0	2
Pickford	427	0	43	0	0	6
Pinckney	3,571	0	25	10	0	47
Pinconning	2,369	22	26	14	18	66
Pine River	1,334	3	9	3	0	0
Pineview	95	0	6	0	2	3
Pittsford	701	0	2	4	0	0
Plainwell	2,527	24	18	12	14	26
Plymouth Canton	14,522	193	30	629	48	190
Pontiac	6,086	7,236	175	347	937	1,611
Port Hope	119	0	2	0	0	0
Port Huron	11,459	620	46	66	252	464
Portage	7,389	310	33	173	35	135
Portland	1,977	3	0	0	8	32
Posen Cons	402	0	2	2	0	0
Potterville	664	2	14	0	16	20
Powell Township	119	0	6	0	0	0
North Central Area	577	0	2	0	0	8
Quincy	1,391	4	6	0	3	7
Rapid River	483	0	44	2	0	0
Ravenna	1,178	6	13	0	0	16
Reading	875	3	9	5	3	3

Appendix II (continued)
Michigan Public School Enrollment by District

	White	Black	Amind	Asian	Other	Hispanic
Redford Union	4,297	41	22	92	13	72
Reed City	2,095	11	15	8	17	30
Reese	1,058	12	0	2	16	49
Reeths Puffer	3,606	119	27	47	24	95
Republic Michigamme	252	0	0	0	0	0
Richmond	1,783	0	0	0	0	21
River Rouge	1,231	862	10	0	32	106
River Valley	1,507	9	4	0	0	6
Riverview	2,182	12	6	10	16	68
Rochester	10,933	147	5	390	7	166
Rockford	4,859	61	21	67	11	36
Rogers City	876	0	0	5	7	10
Romeo	4,086	40	18	14	28	58
Romulus	3,223	1,184	29	73	99	129
Roseville	6,575	130	43	81	10	107
Loucks-Roxand #12	34	0	0	0	0	0
Royal Oak	7,522	81	14	103	72	195
Rudyard	1,057	15	130	6	9	24
Saginaw	5,554	7,496	97	168	1,428	2,119
Saginaw Twp	4,647	228	9	160	103	332
North Dickinson	548	0	0	0	3	3
Saline Area	3,075	35	5	72	23	35
Sand Creek	867	6	2	6	31	66
Sandusky	1,474	0	6	4	12	52
Saranac	1,219	0	30	2	7	26
Saugatuck	455	2	7	8	15	21
Sault Ste Marie	2,677	9	779	16	8	58
Schoolcraft	879	6	5	6	0	8
Shelby	1,191	5	4	0	99	149
Shepherd	1,687	4	2	10	5	27
Sigel Twp District 6	30	0	0	0	0	0
Sodus Dist 5	17	0	0	0	0	0
South Lake	2,042	0	0	35	12	70
South Lyon	4,364	20	52	20	0	128
South Redford	3,070	51	3	24	30	63
South Haven	2,255	472	0	18	0	88
Southfield	4,367	4,332	44	264	96	116
Southgate	4,374	16	24	30	48	295
Sparta	2,412	0	17	10	16	32
Spring Lake	1,725	5	0	26	12	75
Springport	1,057	5	0	4	6	18
St Charles	1,249	12	24	5	11	55
Lakeshore	3,444	0	11	14	0	12
St Johns	3,228	6	5	0	52	148
St Joseph	2,551	28	6	11	0	30
St Louis	1,335	20	9	10	10	58
West Iron County	1,419	0	28	0	0	5
Standish Sterling	1,953	2	50	2	11	39
Stanton Twp	266	2	0	0	0	0
Stephenson	1,120	0	9	15	0	0

Appendix II (continued)
Michigan Public School Enrollment by District

	White	Black	Amind	Asian	Other	Hispanic
Stockbridge	1,790	1	33	0	42	42
Sturgis	2,712	21	11	10	0	30
Summerfield	950	0	6	5	14	14
Suttons Bay	665	7	63	11	9	5
Swan Valley	1,556	17	0	3	2	26
Swartz Creek	4,206	65	120	19	9	114
Tawas	1,677	8	2	3	3	3
Taylor	10,899	855	85	136	141	435
Tecumseh	2,859	19	37	56	50	184
Tekonsha	489	0	6	2	0	0
Thornapple Kellogg	2,224	2	45	41	8	50
Three Rivers	2,821	270	9	19	21	30
Traverse City	10,081	52	65	103	11	147
Trenton	3,058	0	19	46	25	62
Tri County	1,750	17	40	10	4	26
Troy	9,768	231	31	902	17	133
Ubly	838	0	0	0	0	0
Union City	1,224	0	25	9	2	23
Unionville Sebewaing	952	0	3	2	11	34
Utica	23,811	60	70	538	62	368
Van Buren	5,085	868	12	98	19	48
Vanderbilt	370	0	0	3	8	8
Vandercook	893	0	0	0	12	13
Van Dyke	4,384	0	50	124	32	116
Vassar	1,720	11	16	2	18	51
Verona Township No. 1F	43	0	0	3	0	0
Vestaburg	637	11	0	0	0	5
Vicksburg	2,394	15	4	10	9	31
Wakefield	487	2	6	0	0	0
Waldron	507	0	6	0	6	21
Walkerville Rural	224	1	24	0	42	38
Walled Lake Cons	8,903	79	105	173	6	127
Warren Consolidated	14,369	124	60	625	32	161
Warren Woods	2,493	4	0	30	0	4
Waterford	10,377	130	142	151	63	338
Watersmeet Twp	84	0	54	0	2	3
Watervliet	1,042	6	12	0	9	11
Waverly	3,020	321	12	6	103	156
Wayland Union	2,550	9	26	0	0	36
Webberville	810	0	11	2	0	0
Wells Township	36	0	0	0	0	0
West Bloomfield	4,467	130	34	216	4	41
W Branch Rose City	2,760	0	33	2	6	30
West Ottawa	4,236	36	28	246	226	443
Western	1,804	12	31	3	0	5
Westwood Heights	727	620	8	0	28	44
White Cloud	1,100	62	11	8	9	24
White Pigeon	1,179	0	0	26	10	17
White Pine	191	0	6	4	0	0
Whitefish	114	0	0	0	0	0

Appendix II (continued)
Michigan Public School Enrollment by District

	White	Black	Amind	Asian	Other	Hispanic
Whiteford Agr	670	0	0	0	0	13
Whitehall	1,537	124	34	16	7	30
Whitmore Lake	1,106	84	0	0	7	21
Whittemore Prescott	1,274	5	23	8	0	53
Williamston	1,525	15	18	4	29	71
Willow Run	2,126	1,200	27	25	0	83
Wolverine	365	0	17	0	0	0
Woodhaven	4,314	114	37	145	39	132
Wyandotte City	4,631	0	42	18	46	229
Wyoming	5,006	137	39	129	61	177
Yale	1,939	0	8	3	8	9
Ypsilanti	3,342	1,977	0	133	37	79
Zeeland	3,184	0	0	31	42	77
Total	*1,254,734*	*275,386*	*13,988*	*20,933*	*21,675*	*47,265*

Appendix III
Lansing School District Suspension Report

SUSPENSION REPORT

The attached report is a summary of all pupil suspensions in the Lansing School District for the 1992-93 school year. The individual reports should be read as follows:

Incidents of Suspension - Ethnic by Length

1. This is a summary of all suspensions and includes more than one suspension per student. There are, therefore, more incidents of suspension than there are students suspended.
2. Line one (No.) is the number of suspensions categorized by the length of suspension and the racial/ethnic background of the student suspended.
3. Line two (%) is the percentage of students suspended for a given length of time by ethnic code. For example: 39.1% of the suspensions in the ethnic code of 5 were for one day.
4. Line three (% of the group) is the percentage of each ethnic group suspended by length. For example: 17.8% of the total number of Code 5 suspensions were for one day.
5. There were a total of 4,434 incidents of suspensions.

Comparison of Incidents of Suspension - By Sex - By Reason - By Ethnic
These charts compare the incidents of suspension by sex by reason by ethnic. for example: There were 422 incidents of fighting by females (35.5%) as compared to 973 incidents of fighting by males (30.0%).

Incidents of Suspension - By Reason - By Ethnic
This chart shows the number of suspensions by the reason identified categorized by the racial/ethnic background. The totals and percentages for each reason are also shown. For example: 1,395 suspensions, representing 31.5% of all suspensions, were for fighting.

Suspension to Student Services
This chart shows the number of incidents of suspension to Student Services by ethnic group. For example: There were 334 incidents (20.0%) of suspension of code 5 students to Student Services. A total of 1,053 students were referred to Student Services.

Comparison of Number of Incidents and Students Suspended-By Ethnic-By School[1]
This chart compares the incidents of suspension with the umber of individual students suspended for each school categorized by ethnic group. For example: There were 126 incidents of suspension of code 5 students at Eastern.

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[1] This portion of the Suspension Report is not included in the appendix.

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RACIAL ETHNIC CODES

1. American Indian or Alaskan Native or Native American
2. Black (not of Latino or Hispanic origin)
3. Asian or Pacific Islander
4. Latino or Hispanic
5. White (not of Latino of Hispanic origin)

INCIDENTS OF SUSPENSION
ETHNIC BY LENGTH
1992 - 1993

1 DAY OR LESS							2 DAYS					
Code	1	2	3	4	5	T	1	2	3	4	5	T
No.	16	335	7	106	298	762	9	195	3	64	177	448
%	2.1	44.0	.9	13.9	39.1		2.0	43.5	.7	14.3	39.5	
% of each group	15.8	16.2	18.9	19.2	17.8	17.2	8.9	9.4	8.1	11.6	10.6	10.1

3-5 DAYS							1-3 WEEKS					
Code	1	2	3	4	5	T	1	2	3	4	5	T
No.	63	1,322	24	322	1,031	2,762	10	154	2	48	130	344
%	2.3	47.9	.9	11.7	37.3		2.9	44.8	.6	14.0	37.8	
% of each group	62.4	63.8	64.9	58.3	61.7	62.3	9.9	7.4	5.4	8.7	7.8	7.8

3 OR MORE WEEKS							TOTAL					
Code	1	2	3	4	5	T	1	2	3	4	5	T
No.	3	67	1	12	35	118	101	2,073	37	552	1,671	4,434
%	2.5	56.8	.9	10.2	29.7		2.3	46.8	.8	12.5	37.7	
% of each group	3.0	3.2	2.7	2.2	2.1	2.7						

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INCIDENTS OF SUSPENSION - BY REASON - BY ETHNIC
1992 - 1993

REASON	1	2	3	4	5	T	%
Truancy	6	76	3	34	86	205	4.6
Tardiness	0	11	0	4	13	28	.6
Striking Teacher	0	13	0	2	4	19	.4
Fighting	30	633	21	155	556	1,395	31.5
Assault	13	197	0	47	125	382	8.6
Battery	0	5	0	0	3	8	.2
Verbal/Written Threats	2	41	0	13	22	78	1.8
Smoking/Use of Tobacco	1	7	0	0	24	32	.7
Possession of Tobacco	0	0	1	1	4	6	.1
Drug or Alcohol Use	0	9	0	2	5	16	.4
Drugs/Alcohol Possession/Sale	1	16	0	19	21	57	1.3
Possession of Weapons - Use of	4	58	2	12	37	113	2.5
Possession of Fireworks, etc.	0	6	0	1	5	12	.3
Poss. of Illegal Devices, Use of	1	28	0	5	15	49	1.1
Extortion	0	8	0	1	8	17	.4
Theft	0	44	3	12	32	91	2.1
Trespassing	0	4	0	3	4	11	.2
Violation of City & State, etc.	0	1	0	1	2	4	.1
Vandalism/Malicious Destruction	0	4	0	0	7	11	.2
Arson	0	7	0	1	4	12	.3
Misconduct - Disorderly	10	313	3	76	209	611	13.8
Persistent Misconduct	7	211	0	42	152	412	9.3
Defied Authority - Insubordinate	24	236	4	83	214	561	12.7
Lewd/Obscene Behavior	0	48	0	9	21	78	1.8
Sexual Misconduct	1	17	0	0	8	26	.6
Other	1	80	0	29	90	200	4.5
TOTAL	101	2,073	37	552	1,671	4,434	

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REFERRALS TO STUDENT SERVICES BY ETHNIC

1992 - 1993

CODE	1	2	3	4	5	T
Not Referred	86	1,505	29	424	1,337	3,381
% Not Referred	85.2	72.6	78.4	76.8	80.0	76.3
Referred	15	568	8	128	334	1,053
% Referred	14.9	27.4	21.6	23.2	20.0	23.8

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Appendix IV
Michigan State Board of Education, Guidelines to the Rights and Responsibilities of Students

A RECOMMENDED GUIDE TO

Students' Rights and Responsibilities in Michigan

Second Edition

Michigan State Board of Education

FOREWORD

The issue of the rights and responsibilities of students has been an ongoing concern of Michigan educators. During the past twenty years, we have witnessed a gradual change in both the legal and educational views of the rights and responsibilities of students. Legally, the issue of student rights has changed from the concept of "in loco parentis" to the concept that students do not abandon their constitutional rights when entering the school house door. All parties concerned with education, including staff, students, parents and community members, have a responsibility to be well-informed regarding the rights and responsibilities of students.

The Common Goals of Michigan Education and the goal statements of almost all local school districts reflect a concern that young people acquire the information and skills necessary to become effective adult citizens. There is no better avenue to assisting young people in gaining effective citizenship skills than the process of respecting their rights and educating them concerning their responsibilities.

This document provides general information concerning student rights and responsibilities. The State Board of Education is hopeful that local boards of education will find this document useful as they develop and update their policies. Michigan's Mandatory Special Education Act, along with state and federal civil rights legislation, provides special safeguards for handicapped students which are described in *A Handbook For Parents: Planning, Coordinating and Implementing Services for Special Students*. Detailed information on the rights of handicapped students and their responsibilities can be found in the *Administrative Manual for Special Education*, Volumes I and II which is on file in each school district.

Phillip E. Runkel
Superintendent of Public Instruction

May, 1982

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I. INTRODUCTION

A. BACKGROUND INFORMATION

The Michigan State Board of Education has adopted *The Common Goals of Michigan Education*. In Goal Area II: System Responsibilities, it states that:

> *"Michigan education must strive for social justice in the schools and educational system in order to enhance each person's sense of dignity and worth. To achieve this goal a system should demonstrate efforts to assure that the educationally related legal rights of educators, students, and parents are protected."*

The issue of the rights and responsibilities of students remains high on the list of concerns within public education. Schools are significantly affected by court decisions, attorney general opinions, legislative enactments, policy directives, and rules and regulations concerning the rights and responsibilities of students. During our lifetime, schools have witnessed challenges to long held precepts of the rights of students. Federal troops ensured the right of Black students to attend formerly segregated facilities. The tradition of "In loco parentis" diminished in favor of the concept from *Tinker* v. *DesMoines* that children do not abandon their constitutional rights at the schoolhouse door.

B. PURPOSE OF GUIDELINES

The major purpose of the Guidelines is to provide information to assist local district personnel including officials, staff, students, parents and community members in developing, implementing, and assessing policy and practices concerning student conduct. It is not the purpose of the *Guidelines* to provide specific legal advice. Persons seeking legal advice should contact an attorney.

The *Guidelines* provide two types of information. The first, entitled "Current Law and Practice", provides local district personnel with recent information concerning court decisions, attorney general opinions, legislative enactments, rules and regulations, and policy directives concerning the rights and responsibilities of students. The second, entitled "Suggested Procedures", recommends positive approaches to the rights and responsibilities of students within the framework of local district policy and practice.

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It is not the purpose of the *Guidelines* to dictate a uniform set of rules of conduct for students. The State Board of Education recognizes and supports the right of local boards, district staff, students, and community members to determine standards of conduct for their community. The State Board of Education further recognizes and supports the concept that local district standards must be developed within the context of the established rights of students. Therefore, where the law is clear regarding specific rights of students, the State Board of Education expects that locally-adopted standards of student conduct will be compatible with legal principle.

C. THE DEVELOPMENT OF LOCAL STUDENT CODES IN MICHIGAN

The State Board of Education, under its leadership obligations,[1] believes the issue of students' rights and responsibilities to be an important matter but one best administered by local school boards. The State Board to this point has restricted its official action in this area to simply requesting local districts to adopt written codes of student conduct. The text of the Board's resolution follows:

> *"...school districts be required, by April 1, 1971, to notify the State Board of Education that the local board of education has adopted, or is adopting, a Code of Student Conduct which code identifies categories of misconduct, defines the conditions under which students may be suspended or expelled, and specifies the procedural due process safeguards which will be utilized in the implementation of the locally-adopted student conduct codes..."*

D. AUTHORITY OF LOCAL SCHOOL BOARDS

Section 1300[2] of the *School Code* requires each local school board to "make reasonable regulations relative to anything necessary for the proper establishment, maintenance, management, and carrying on of the public schools of the district, including regulations relative to the conduct of pupils concerning their safety while in attendance at school or enroute to and from school."

This statute unquestionably provides local boards of education with the authority to establish student codes of conduct, attendance policies, and any other policies deemed necessary and appropriate. However, as local school boards and school officials adopt and carry out rules that strive to maintain an environment conducive to learning, they must also consider other criteria such as the authority of the State Board of Education, and the rights and responsibilities of the students.

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[1] MICH. CONST. art 8, § 3

[2] MCLA 380.1300; MSA 15.41300

E. SUMMARY

The State Board of Education, in providing general leadership to education in the state, publishes *The Guidelines to the Rights and Responsibilities of Students*. The *Guidelines* contain the most current information available concerning this issue. The State Board of Education's purpose in publishing the *Guidelines* is to provide information which local district boards, staff, students, and community members can use in adopting, implementing, and assessing local standards of student conduct.

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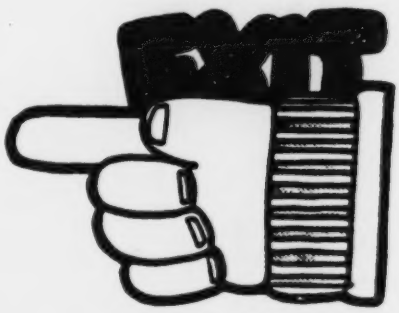
IV. DUE PROCESS AND THE FAIR ADMINISTRATION OF DISCIPLINE



CURRENT LAW AND PRACTICE

1. The U.S. Constitution

The Fourteenth Amendment of the U.S. Constitution protects the rights of persons against arbitrary and unreasonably imposed government deprivations of life, liberty, or property without due process of law.

In *Tinker* v. *Des Moines*, the U.S. Supreme Court affirmed the applicability of constitutional safeguards to students while attending public school.[47] In *Goss* v. *Lopez*, the U.S. Supreme Court found that students had a property interest in educational benefits and a liberty interest in their reputations, both of which qualify for Fourteenth Amendment protection.[48] Therefore, it is clear that due process follows students to school.

Due process is a broad constitutional concept relating to substance and procedure. The essence of both substantive and procedural due process in the area of student discipline is to protect students against arbitrary and capricious rules and actions of school authorities. Substantive due process demands that a school rule must be reasonable and fair. Procedural due process requires a just and orderly proceeding when a student is charged with a violation of a school rule. Due process, in either instance, is a flexible concept. The standards required depend upon the seriousness of the allegations and the possible punishments that may be imposed.

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[47] *Tinker* v. *Des Moines Independent Community Schools*, Supra.

[48] *Goss* v. *Lopez*, 419 US 565; 95 S Ct 729; 42 L Ed 2d 725 (1973)

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2. Authority of School Code

By the authority of Section 1311 of the *School Code*, local school boards:

> *"may authorize or order the suspension or expulsion from school of a pupil guilty of gross misdemeanor or persistent disobedience, when in the board's judgment the interest of the school may demand the authorization or order . . ."*

The Legislature in enacting this law did not define "gross misdemeanor" or "persistent disobedience."

SUGGESTED PROCEDURES

As mentioned earlier, "Substantive" due process is concerned with the establishment of rules and regulations. It requires that rules bear a reasonable relationship to proper governmental purposes — in the context of schools; educational purposes. In general, rules must not go so far beyond such purposes as to constitute an abuse of governmental authority and thus violate due process guarantees.

In developing a policy governing school rules and regulations, the following legal principles should be kept in mind:

1. the policy must provide notice of what conduct is prohibited or permitted;
2. the rules must be reasonably understandable to the average student;
3. the rules must be rationally related to a valid educational purpose;
4. the rules must be precise so as not to prohibit constitutionally protected activities;
5. the policy must provide students with notice of potential consequences for violating specific rules;
6. the type of punishment specified in the policy must be within the expressed or implied authority of the school district to utilize;
7. the punishment must be of reasonable severity in relation to the seriousness of the misconduct or the number of times the misconduct was committed.
8. A copy of the rules and procedures must be disseminated to all students.

Procedural due process can be best characterized as a legal standard of varying, minimal procedural safeguards designed to insure

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that a student is afforded every opportunity for a fair and reasonable determination substantiated by evidence that cause exists to justify an official school-imposed sanction.

Perhaps the most important characteristic of procedural due process is its variable nature. Notwithstanding the desire of schools to have a simple and succinct definition of due process which covers every conceivable situation, the very nature of due process rejects such a rigid approach.

In the school context, procedural due process requirements will vary depending on the length of a suspension; e.g., a short-term suspension versus a long-term suspension or expulsion. Indeed, in Michigan schools, expulsion as the most serious school-initiated punishment, should be decided upon by the board of education upon recommendation of the superintendent and his/her subordinates.[9]

Also, school officials should not, in examining various decisions, conclude that the requirements within those cases represent the totality of safeguards which can be afforded a student. School officials are free to go beyond the minimum and afford procedural safeguards in all disciplinary proceedings as a matter of general policy.

The following are some of the elements of procedural due process which should be considered:

1. The timely and specific notice of charges against the student.
2. The student's right to question each member of the professional and school staff or student involved in or witness to the incident.
3. The student's right to present evidence in his or her behalf.
4. The student's right to an impartial hearing.
5. The student's right to rebut adverse testimony.
6. The student's right to be represented by qualified counsel at the hearing.
7. The student's right to a record of the hearing.
8. The student's right to appeal.

The elements noted above are the embodiment of the concept of procedural due process characterized earlier. There is obviously a natural difference between a one-day suspension for being mildly insubordinate and an extensive suspension for serious misconduct. A

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[9] MCLA 380.1311; MSA 15.41311

student in danger of being suspended for the rest of the term might well expect to receive all or most of the elements listed above prior to such actions."[84] Indeed, one case[85] tried in U.S. District Court ordered a Michigan school district to give an expelled student a hearing in accordance with the guidelines laid down in an earlier Federal case.[86] Those guidelines, the court noted, included "notice containing a statement of the specific charges and grounds which, if proven, would justify expulsion under the regulations of the Board of Education; a hearing affording 'an opportunity to hear both sides in considerable detail' preserving the rudiments of an adversary proceeding; names of witnesses against the student; and the opportunity to present to the Board his own defense."[87] A student being suspended for a short period of time, on the other hand, might receive adequate procedural due process by an informal conference with the principal. Indeed, in Goss v. Lopez decided by the U.S. Supreme Court, the court enumerated the due process protections to be afforded in connection with a suspension of 10 days or less (Ohio's definition of short-term suspension). The court required that the student be given at least "... written or oral notice of the charges against him and, if he denies them, an explanation of the evidence the authorities have and an opportunity to present his side of the story ..."[88] Further, the court held that "... since the hearing may occur almost immediately following the misconduct, it follows that a general notice and hearing should precede removal of the student from school."[89] However, the court did recognize that there are situations where a student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process. In such situations, the court held that such a student could be summarily suspended with notice and hearing occurring within 72 hours.[90]

It is strongly recommended that local school districts classify suspension and resulting due process in a uniform, districtwide fashion. For example:

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[84] Vail v. *Board of Education of Portsmouth School District*, 354 F SUPP 592, (DNH, 1973)

[85] Vought v. *Van Buren Public Schools*, 306 F SUPP 1388 (ED MICH, 1969)

[86] Dixon v. *Alabama*, 368 US 930, 82 S Ct 368; 7 L Ed 2d 193 (1961)

[87] Vought v. *Van Buren Public Schools*, 306 F SUPP 1388 (ED MICH, 1969)

[88] Goss v. *Lopez*, Supra.

[89] Goss v. *Lopez*, Supra.

[90] Lopez v. *Williams*, 372 F SUPP 1279 (SD Ohio, 1973)

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Length of Suspension	*Who Suspends*	*Procedural Due Process Requirements*
Short Term	Building administrator or person designated	a. informal meeting with building administrator prior to suspension b. student presented with charges, evidence and witnesses, if any, against him/her c. student given opportunity to deny charges and rebut evidence d. decision may be appealed
Long Term	Building administrator or person designated	a. informal hearing with superintendent or person designated by the local school board b. student presented with charges, evidence and witnesses, if any, against him/her c. student given opportunity to deny charges and rebut evidence d. student entitled to present own witnesses and to be represented e. decision may be appealed
Expulsion*	Board of Education upon recommendation of superintendent	a. formal hearing before board of education b. written, prior notice to student and parent or guardian if the student is less than 18 years old c. student presented with charges, evidence and witnesses, if any, against him/her d. student given opportunity to deny charges and rebut evidence e. student entitled to present own witnesses f. student may have representation

*If the student is suspected of being handicapped, then the district must evaluate the student to determine if the student is eligible for special education programs and services prior to initiating expulsion. If a student has been determined handicapped, pursuant to the rules of the State Board of Education, an individual educational planning committee must be convened prior to this action so that the handicapped student's eligibility for special education programs and services can be re-examined and assurances provided that there is not a more appropriate special education program or service that could be provided in lieu of expulsion.

Appendix V
Michigan Civil Rights Commission 1968 Report: Discipline and Suspension Policy and Practices in Michigan Public Schools

DISCIPLINE AND SUSPENSION POLICY AND PRACTICES IN MICHIGAN PUBLIC SCHOOLS

Report of the
MICHIGAN CIVIL RIGHTS COMMISSION

February 29, 1968

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DISCIPLINE AND SUSPENSION POLICY AND PRACTICES IN MICHIGAN PUBLIC SCHOOLS

Racial tension and disturbances between students and faculty have reached the crisis point in several Michigan school districts. The situation in some of these schools has become known to the public and in others it has not. A realistic appraisal of the school and community environment in which tension has occurred reveals numerous underlying factors. Among these, usually, are the questions of how policies of discipline and suspension are formulated and how they are applied.

In order to highlight the seriousness of this problem, the Michigan Civil Rights Commission has reviewed several situations in which its staff has been directly involved.

Dearborn School District No. 8

In November 1967, news media reported that a large group of Negro youngsters had been arrested and later released to the custody of their parents as a result of a rock-throwing incident at Robichaud Senior High School in Dearborn No. 8 School District. This larger incident had been precipitated by a fight between a Negro male student and a male physical education teacher at the high school.

The school responded to this fight by suspending several young Negro students. The teachers indicated that they would not return to school until the Board and administration established firm guidelines on the questions of student conduct and discipline procedures.

In this situation, the students involved raised the question of an unclear discipline policy and racially biased judgments by individual faculty members. The teachers deplored the fact that the students had no firm guidelines which would set out, for all parties concerned, what behavior was appropriate, and what acts would incur what discipline. The administration has subsequently re-admitted the student involved in the original incident and appointed a student-faculty-administration committee to develop a code of conduct and recommend standard procedures.

Taylor Township

The situation in Taylor Township Senior and Junior High Schools was reported to the MCRC through formal complaints in November 1967. These alleged, among other things, the unequal application of discipline and suspension standards based on the race of the students involved. As part of the final disposition of the cases, it was agreed that the Taylor Township School administration would work with the Michigan Civil Rights Commission to solve problems of this nature. Subsequently, the Superintendent and his administrative staff stated that there was no system-wide code. It is the school administration's contention that it is the best policy for each disciplinarian - (school administrator or classroom teacher) to administer punishment according to his own standards, taking the students' individual differences into account.

River Rouge

In January of 1968, Negro students at River Rouge High School walked out protesting conditions within the school district. Among their grievances was unequal application of discipline. The situation in River Rouge reached the attention of the public. School was closed at the senior high school for a day in order to give the faculty the opportunity to be confronted by the students' allegations. Demonstrations continued before school began in the morning, and at the lunch hour for a week.

Among the steps being taken by the administration is the establishment of a faculty-student committee to review existing discipline policies and to make recommendations regarding the formulation of a more up-to-date version.

Mt. Clemens

Negro students at Mt. Clemens High School organized a walkout in October 1967. Unequal treatment in discipline practices was high on their list of complaints. MCRC staff met with students, concerned citizens, school administrators and the School Board regarding problems in the high school. The students returned to their classes as school officials promised to investigate and correct any inequities. Student and faculty groups were established to facilitate the problem solving.

Subsequent to this action, a number of Negro students have been suspended, placed on probation. or have dropped out of the high school, including seniors to graduate in June 1968. All of these students participated in the October walkout. A particular concern is the practice of requiring high school students to sign agreements which state that they will voluntarily withdraw from school if they violate prescribed standards of conduct. This agreement may become binding if the student is involved in any further discipline matter. Negro parents feel that this procedure is being applied in a discriminatory fashion.

Oak Park

On February 21, 1968, some 300 adults and youth from the Royal Oak Township area of Oak Park Schools met to discuss problems encountered in the junior and senior high schools. Reports of unequal and unfair treatment were related during this meeting. While acknowledging that this public testimony was not verified, the residents argued that a critical problem existed and directed telegrams to the Michigan Civil Rights Commission and the State Board of Education, requesting an investigation of "a racial crisis".

Rumors of a major racial confrontation among students are widespread in the Oak Park District and absenteeism was high during the week of February 19. The rate of Negro and white student expulsions is also greatly increased.

The MCRC staff is conferring with citizens and school officials to clarify the facts and identify the central issues in this matter.

Kalamazoo

In November 1967, demonstrations occurred outside Kalamazoo Central High School protesting the unequal treatment of Negro students at Kalamazoo Central. Continuing tension between white and Negro students at the high school erupted into a number of fights. Police were called to the school, arrests were made, and a number of students were suspended. As a result of these incidents high absenteeism was reported. Approximately 40% of the total student body of 2,100 had remained home from school because of what they considered a potentially violent situation.

On November 20, 1967, there was a large public meeting before the Kalamazoo Board of Education. At that time action was taken by the Kalamazoo Board of Education to restore law and order through the imposition of strong disciplinary measures including suspension and expulsion. In addition to this action, the Board also recommended several other steps such as inclusion of Negro history into the curriculum and the addition of several Negro staff in order to relieve the underlying racially tense situation.

Other Districts

In addition to the school districts mentioned above, allegations regarding unfair and unequal application of discipline have also been made in Battle Creek, Detroit, Highland Park, Benton Harbor, Pontiac, Romulus, and Ypsilanti, indicating that the problem is general and wide spread.

School Population

The population of the school districts in which these incidents occurred is as follows:

Dearborn No. 8 is a school district in Western Wayne County. Its neighbors include Inkster, Cherry Hill and Dearborn No. 7. The total student population of the school district is approximately 6,000. The Negro student population of the school district is approximately 1/3 of the student population.

Taylor Township is also in Western Wayne County. The total student population is between 17 and 18,000 students. The Negro student population in Taylor is less than 2% of the total population.

River Rouge is in Southeastern Wayne County. It has approximately 4,000 students and the Negro population is approximately 56%.

Oak Park is a school district located in Oakland County. Its total school enrollment is approximately 7 to 8,000 pupils. The Negro student population is approximately ten percent.

Pontiac is a school district located in Oakland County. Its total school population is approximately 17,000. The Negro student population represents approximately 25% of the total school census.

The City of Kalamazoo has a total population of approximately 82,000, and of that population approximately 6.3% are Negro.

Status of Present Law

The authority of school boards to authorize suspension or expulsion, and to make reasonable rules and regulations regarding discipline is granted under Public Acts cited in the School Code. Section 613 of the School Code authorizes suspensions for the following reasons: (1) gross misdemeanor, (2) persistent disobedience, or (3) habits or bodily conditions detrimental to the school. Guidelines set by the State, although controlling, leave room for broad interpretation by individual school districts.

There is a wide-spread problem with respect to the violation of the rights of public school children through the absence or inadequacy of safeguards for due process of the law in the procedures followed by many school districts in implementing suspension and expulsion authority. There is, in fact, accumulating evidence that this deficiency affects, most acutely, Negro and poor children.

Disciplinary action, which takes the form of suspension or expulsion, generally falls into three basic categories:

(1) short-term suspension which does not usually exceed five days

(2) suspension ranging from five days to varying lengths of time and,

(3) permanent expulsion or exclusion.

The most severe form of discipline administered by school officials is expulsion. Any student subject to this action is in fact deprived of his right to a free public school education as guaranteed in the Michigan Constitution.

Underlying the racial tension which has erupted into open confrontation in numerous Michigan school districts this current year is the question of unequal application of discipline as seen by Negro students at the secondary level. The matter of the unequal application of discipline raises the question of what action can be taken at the State level to aid in the solution of this problem.

State Responsibility

Michigan Constitution and laws guarantee every citizen the right to equal educational opportunity without discrimination. The State Board of Education is vested by the Michigan Constitution with "leadership and general supervision over all public education ..." The Michigan Civil Rights Commission also shares responsibility under the Michigan Constitution for securing the civil rights of all citizens. The Michigan Civil Rights Commission and the State Board of Education have acknowledged their dual responsibility in

the area of education and have issued a policy statement on equality of educational opportunity in April of 1966. This dual responsibility necessitates joint action for the purpose of developing uniform policies throughout the State.

The following recommendations are made in light of the State responsibility for public education. Local school districts, the State Board of Education and the Michigan Civil Rights Commission must take joint action.

RECOMMENDATIONS

Preface

The School Code of the State of Michigan, Section 340.613 (M.S.A. 15.3613) authorizes suspensions for the following reasons:

1. gross misdemeanor
2. persistent disobedience
3. habits or bodily conditions detrimental to the school.

This section of the School Code does not provide sufficient guidelines for local school districts. It is the MCRC's recommendation that the State Board of Education use its rule-making authority to set a standard that local school districts may follow in developing and applying policies of discipline and suspension. It is our hope that school districts would participate with the State in the development of these guidelines.

A uniform State policy would continue to acknowledge the responsibility of local school districts, at times, to suspend or exclude a student because:

1. of behavior that infringes on the rights of other children to an education or
2. because of the student's inability to be educated in a "normal" school environment.

However, the State, under the Constitution, has the responsibility to educate such students.

Actions of a local school district which result in a temporary exclusion should be differentiated from a permanent exclusion. The right to a hearing with all the safeguards of due process of the law should be mandatory in a case of permanent exclusion. These due process safeguards include the following:

1. right to counsel
2. right to call witnesses
3. right to cross examination
4. right to remain silent
5. right to appeal

These are recommendations to local school districts which should be followed in order to develop uniform policies to achieve and apply discipline and suspension.

1. Each school district should review its discipline and suspension practices in light of the underlying general and racial tensions in public schools today.

2. Administrators, teachers, students, and parents, should be included in the review and re-definition of this discipline and suspension policy.

3. The local policy should contain the following elements:

   a. system-wide notice - local school policy and the procedure for its implementation should be widely promulgated, so that all parties involved - parents, students, teachers, and administrators, know what conduct is expected of them in their local school districts.

   b. individual notice - prior notice, where possible, should be given to students and parents regarding pending discipline or suspension.

   c. when prior notice is not possible, parents should be notified fully of:

      i. school policy

      ii. the full nature of the student's grievance

      iii. school action

      iv. parental action, if any, necessary to regain the admittance of the student

      v. what avenues are left open to parents when they disagree with the action taken by school authorities in the case of permanent exclusion? The appeal process should be formally communicated to the parents and should afford the opportunity for a hearing before:

         (a) the State Board of Education

         (b) the courts.

Education Division
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Appendix VI
Letter of Understanding Between Kentwood School District and Concerned Students and Parents

LETTER OF UNDERSTANDING
BETWEEN
KENTWOOD SCHOOL DISTRICT &
CONCERNED STUDENTS AND PARENTS

Following a series of student conflicts with racial overtones which culminated in the expulsion from school of two African American students, the Community Relations Service of the United States Department of Justice convened a number of discussion sessions with representatives from the Kentwood School District in Michigan and students, parents and community representatives of two African American Organizations.

The school was represented by Ms. Linda David, President of the Kentwood School Board; Dr. Mary Laiker, Superintendent; Ms. Rosemary Ervins, Assistant Superintendent for Curriculum/ Instruction; Mr. Robert DeVries, Assistant Superintendent for Human Resources; and Dr. Larry Corbett, Principal of East Kentwood High School. Representing the Concerned Parent Group were: Ms. Linda Hitchcock, Mr. Kasau Kosey, Mr Billy Taylor, and Ms. Barbara Blassingame (parents); Ms. Hallie Blue (NAACP); Mr. Rodney Brooks (Urban League); and Ms. Tia Bates, Mr. Anthony Harvey, and Mr. Curt Agard represented the students.

Through a number of community forums, the above named persons had been selected to represent the concerns and issues of interest to the African American community. A list of discussion topics were submitted to CRS, as a basis for the negotiations that took place on 11/29-11/30/93 and continued on 1/11/94, 2/15/94, 3/18/94 and 4/12/94.

The following is a summary of the conclusions and concensus reached during the course of these meetings.

1). The community requests a thorough investigation of the alleged existance of white supremacy groups within the Kentwood School System.

   A.) The school district has retained the services of a private investigation firm from another part of the state to investigate the possible existance of such a group.

B.) The high school principal will provide the negotiating committee with a copy of the investigation report which is expected to be completed by 1/28/94. The community negotiating committee will, in turn, review and make its own recommendations to the superintendent by 2/14/94 and/or within two weeks of receipt of the above referenced report.

2.) The community requests that policy announcements be made that racial slurs will not be tolerated and that an addendum to the student handbook be included that details that policy.

A.) The school system has already undertaken some action by making public address announcements, as well as including mention in the student bulletins of zero tolerance to racial harassment.

B.) The school district agreed to develop a draft of a policy by 12/9/93, present it to the group for review and response, and to include the policy as an addendum to the East Kentwood High School student handbook during the 2nd semester registration on or about 1/24/94.

C.) The district has agreed to incorporate sexual and/or racial harassment as part of item 13 in student handbook. The policy will read as follows:

> Sexual and/or Racial harassment: Sexual harassment includes, but is not limited to, any unwelcome or unwanted sexual advances, or other verbal, written or physical conduct of a sexual nature that is unwanted by or unwelcome to a student. Racial harassment, which includes, but is not limited to racial slurs, degrading remarks and comments of an incitaful nature. Each offense may result in parental contact, possible one to ten days suspension, possible police contact, possible recommended expulsion.

3.) The community requests that a formal racial harassment policy be established by the Board of Education.

A.) The Kentwood School Board has been reviewing the need for such a policy with their legal counsel. At present the legality of the wording to involve racial slurs has delayed the finalizing of a document that would not violate First Amendment rights. The policy draft has been submitted to the Office of Civil Rights in December for their review.

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B.) The community negotiating team will provide the school district with possible models of existing anti-discrimination policies that have met legal review and/or Supreme Court opinions. The superintendent agrees to contact the Wyoming School District to explore what they have in place no later than 1/17/94. Mr. Billy Taylor will be the community liaison and will provide material from the Klan Watch Group to the superintendent relative to racial harassment, conflict resolution, and hate groups.

4.) The students feel that they are not able to achieve representation on the student council in its present structure.

A.) The 40 member student council is elected at large and also composes a class as a group. The high school principal deals with a committee of student council advisors in addressing student concerns.

B.) The principal agrees to establish a committee composed of 2 student council advisors, 2 majority students and 3 minority students with the charge to review the present structure and make appropriate recommendations by 3/15/94 insuring voting rights in the near future. The need to address Right of Appeal to ensure that minority students have a voice on student council will also be considered. (As of 2/16/94, Dr. Corbett is working on three different proposals which is an on-going process.)

5.) The concerned parents and students feel a need to have an assembly by grade level to discuss racial issues.

A.) The principal does not concur that assembly by grade is useful because of the large number of students involved. There are approximately 2,000 students in the high school which translates roughly to an average of 500 per class. The high school has used video tapes, group discussions, and other approaches with small groups of staff and students.

B.) The principal agrees to work with a committee from the concerned parents and students group to develop the logistics for having racial issues activity at the high school. The community liaisons will be Mr. Rodney Brooks and Ms. Nellie Blue in meetings to develop format and approach. Additionally, Dr. Corbett and Mr. Brooks will develop a joint letter to community resources such as Eric Williams, President of E.J. Williams & Associates; Gwen Gaines, President of Gaines, Winfield & Associates;

Fran Dalton, Education Chairperson of Cultural Diversity Network; Mary Edmond, Partner of Reflections Unlimited; and Dr. Charles Warfield of Western Michigan University; etc.

It is believed that an interactive exercise is thought to be more effective because it's a hands-on approach and provides more of an opportunity for dialogue before and after which is what the students want to see happen. It is important to note that we strongly believe all students in the district should be involved in such an activity.

Therefore, the Assistant Superintendent in charge of instruction, Ms. Ervine, agreed to develop and/or implement an assembly at each school in the district utilizing existing resources where possible and/or available. Ms. Blue and Mr. Brooks, with the community negotiating team, will help to coordinate.

6.) The STAR organization is composed of African American students who want to be allowed to participate as a recognized campus group. STAR stands for STUDENTS TOGETHER AGAINST RACISM and does not presently have a faculty sponsor(s).

A.) The principal has no objection to the group's existance or participation in school activities, or in advertising through channels; however, all school sponsored clubs must meet certain criteria and agree to school regulations.

B.) The principal provided the students (via Anthony Harvey) a list of all schedule B affiliated school clubs, but failed to provide them with pertinent regulations and/or requirements for becoming a school sponsored club. Upon receipt of the above mentioned regulations and requirements, the students agree to apply for school sponsored affiliation and comply with district rules.

C.) A bargaining unit issue was expressed by the district as to whether or not they were obligated to offer the position of sponsor to a member of the faculty or whether a parent and/or volunteer could serve in that capacity. As a result of that discussion, Dr. Corbett will inquire among high school staff if anyone has an interest in being a faculty sponsor for STAR. Additionally, the district will research other Michigan districts that might currently utilize volunteers in Schedule B clubs that does not open the district up to all

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sorts of groups.

Drs. Leikar and Corbett, along with community members Blassingame and Taylor, will work as a sub-committee to develop acceptable language regarding the STAR group as a recognized school sponsored club, and the use of a faculty, and parent sponsorship.

7.) The negotiating team feels strongly that the present curriculum does not heightan recognition, awareness and appreciation for the contributions of minorities in American society.

A.) The school district feels strongly that in the last two years, substantial progress has been made in the expansion of course content, in the acquiring of extensive multicultural materials, and in the improvement of teacher awareness and compliance with Public Act 25.

B.) The Assistant Superintendent for Curriculum agrees to provide, to Mr. Billy Taylor, a complete list of present available references and resources and the extent of their utilization by faculty and students. The committee agrees to review and make recommendations of other reference materials the district may consider including.

C.) The principal agrees to review the present class trips planned, the expected lecturers scheduled, and the level of funding available for possible short-tarm efforts to improve the multicultural experiences for all students.

D.) The principal will convene a meeting of his multicultural committee (Concerned About Our Kids) and invite Mr. Hosey and Mr. Taylor to participate. The committee will develop updated plans and recommendations by 1/22/94.

8.) The concerned parents and students are opposed to the establishment of a Dean of Students position that does not have the responsibility to insure change.

A.) The superintendant had begun the process of securing authorization to hire a person and had already conveyed to the Board of Education a specific recommendation for the job to be considered at the next scheduled board meeting.

B.) Because of the community concerns regarding the assignment of that position to the high school, as

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opposed to the central office, the superintendant agrees to withdraw her recommendations at the request of the negotiating committee pending review of the job description, and consult further with the negotiating committee and her administrative staff before making a final recommendation to the school board.

C.) Dr. Leiker indicated that there was no consensus that this would be a district-wide position versus a building-level position. She also expressed a concern that funding could be a problem and requested the help of the community negotiating committee in "wrestling with this opportunity."

9.) The committee feels strongly that there appears to be a lack of cultural sensitivity by the faculty and staff of the Kentwood School District. The committee requests that a comprehensive diversity training package be developed that would involve the latest up-to-date instruction possible.

A.) The superintendant has undertaken extensive efforts to provide multicultural awareness training in many forms. The district has scheduled all staff for inservice that includes the World of Difference Training. All staff in the entire district should have completed the World of Difference inservice by 2/94. To date the high school completed the training on 11/10/93 and the middle schools should be done by December 1993. On 2/24 make-up sessions will be conducted.

B.) Because the community feels strongly that the effectiveness of the training should be demonstrated by performance, some accountability should be reflected in performance evaluations. The superintendant concurs that some evaluate mechanism needs to be developed. Ms. Nellie Sims and Mr. Rodney Brooks will provide, existing models presently in place in other districts to the assistant superintendent of curriculum by 3/15.

10.) The Community Negotiating Team believes that there is a lack of visible minority role models due to the lack of sufficient minority faculty and administrators that contribute to the inability of African American students to be an identifiable part of campus life.

A.) The school system acknowledges the need for better minority representation at all levels of the school environment.

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B.) The superintendant agrees to undertake a needs assessment by reviewing the E.E.O. report. The school district will identify all areas where minorities are under utilized and prioritize those areas for aggressive recruitment. The school system will attempt to use all available resources for the identification of candidates interested in working for the Kentwood School District, to include national searches where necessary. The district will retain the services of a minority search firm when needed and request input and referrals from the negotiating committee.

C.) The District agrees to improve Minority representation at all classifications of employment within the district. The districts goal is to prioritize available high profile positions for qualified minority candidates and to insure that each building shall have appropriate minority representation at all classifications of employment within the district.

D.) The district agrees to provide the negotiating committee with a list of minority search firms that have been or will be contacted by the school district. The Assistant Superintendant for Instruction will be responsible for providing the Committee with the list by 5/16/94.

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11.) The Negotiating Committee request that the administration retain the services of an outside consultant (firm,group,or individual) to facilitate the implementation of a multicultural curriculum. This consultant shall have proven ability to implement such a program.

A.) A list of candidates for consideration shall be provided by the community negotiating committee to the school administration by 4/22/94.

B.) The district will utilize outside resources including World of Difference, other consultants, community members, and or a list of candidates submitted by the community negotiating committee for possible use in the area of curriculum. The actual consultant or assistant to be used for any multicultural curriculum decision needs to remain a decision by the Assistant Superintendent for Curriculum Council. This is consistent with the agreement in the teacher's contract for curriculum implementation (see attached Master Agreement - Article 12). In addition, any actual selection of a person to assist the district would be ultimately responsible to the Board of Education.

12.) The Negotiating Committee believes that the administration should retain the services of an outside consultant (firm, group, or individual), under the direct supervision of the Director of Multicultural Development,to direct the implementation of racism/ethnic diversity training for all school employees. This consultant shall have proven ability to implement such a program.

A.) A list of candidates for consideration shall be provided by the community negotiating committee to the school administration

B.) The District agrees to utilize outside resource with the same methodology as outlined in section 11 above.

13.) The Negotiating Committee feels that the school district should identify all areas where ethnic minorities are under-utilized and prioritize those areas for aggressive recruitment.

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A.) This area of concern was thoroughly discussed under Section 10) dealing with Minority Employment within the Kentwood School District.

B.) The Negotiating Committee requests the inclusion of minority (non-school personnel) community members (preferable member of professional/ community organization) on the selection, screening, and interview committee.

The District agrees to include any parent and/or community minority members to offer suggestions for the interview committee to consider as well as a list of attributes the candidates should possess.

C.) The Committee requests that for each minority candidate who was interviewed but not hired, the administration shall document why the candidate was not hired.

The District agrees that within the legal parameter that protect the privacy and confidentiality rights of the individual applicants the committee will be provided status reports.

D.) The Committee requests the reassessment building assignments of minority staff to reflect minority student enrollment throughout the district.

The Superintendent agrees to require all School Building Administrators to evaluate their Respective EEO Reports and set appropriate goals per building to hire or transfer Minorities as opportunity and needs become evident. This expectation of all Building Administrator will be implemented for 1994-1995 School Year.

E.) The Community requests that all publicized advertisements for open positions shall include the statement "Minorities are encouraged to apply",or similar language in addition to the standard E.O.E. statement.

The District agrees to this request.

F.) The Community would like to see the District hire a Minority Supplier Development Coordinator to ensure that opportunities exist for the school district to utilize the services of minority contractors and suppliers.

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There is no position of this type within the district at this time. These duties are handled within the Business Department. The Community will be provided with the proper contact person.

14.) The Community requests the School District hire a Director of MultiCultural Development. This shall be a permanent district-wide administrative position directly responsible to the Superintendent of Schools. This person shall have at least the following responsibilities:

1. Serve as the first contact for all ethnic/racial issues, concerns, problems, and incidents within the school district; investigate all such reported issues, concerns, problems and incidents, and recommend appropriate corrective action to appropriate personnel.

2. Actively participate in the development and implementation of programs and processes which will enhance staff and faculty development and encourage awareness and respect for the cultural diversity within the school and community.

3. Chair an on-going district-wide multicultural support group composed of students, community members, school staff, and administration.

4. Attend meetings, classes, workshops, and seminars to stay abreast of the latest developments and advances for personal and professional growth.

5. Maintain documentation of all reported ethnic/racial concerns, issues, problems, and incidents; document the recommended implemented corrective action.

6. Advise the administration or Principal regarding the impact of policies and procedures upon students, staff, and faculty of color.

The Administration agrees to establish the position for Director of MultiCultural Development to be in place by mid June 1994. In reference to the areas of responsibility for a position to work as district-wide facilitator for all students in the district, the areas 2,3,4,5, and 6 would fall within the responsibility of such a position. In reference to number 1, the building level Assistant Principals must continue to serve as first contact for any concern or incident within their school setting. It

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is the responsibility of the immediate administrators to investigate any area of concern and recommend appropriate action. It is appropriate to expect a person in the capacity of district - wide facilitator to serve in an appeals procedure capacity.

B.) The Committee recommend that this person shall have at least the following qualifications:

1. Minimum of a bachelors degree (preferable masters Degree), or equivalent, in public administration, education, or related field.

2. Experience in working within a multicultural environment.

3. Strong communication skills- ability to communicate effectively with students, faculty, staff, and administration, as well as staff.

4. Aware of external community resources which can provide a direct linkage with the school for the benefit of the students and faculty.

5. Proven organizational and personnal management skills.

6. Preferably an active participant in professional/community organizations.

7. Personal experience with respect to conflict resolution pertaining to racial/ ethnic issues.

The District agrees that in reference to the qualifications for this position items 1 through 7 are supported by the district would definitely expect a person to have experience and understanding in dealing with racial /ethnic issues.

15.) The Negotiating Team feel that the Administration should conduct periodic community forums to inform the public of what is going on within the school district and to offer the public the opportunity to informally ask questions and express opinions and receive immediate response from school representatives. This format will be entirely different than that used at the school board meetings. These meetings should be held at least three times per year on the first Monday of May and October.

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A.) The District will agree to two public forums a year provided the Negotiation Team is part of the forums to insure the events are of a constructive nature. The dates for these public forums will be sometime in October 1994 and May 1995.

16.) The Committee believes the level of security should be returned to normal (pre-crsis) levels. Those persons hired for security should reflect the diversity of the student population.

A.) The District agree to confer with the Security Company retained by the School District to insure that visible Minority Security Personnel during school hours are available.

In order to ensure the integrity of this agreement the parties agree to function as a self enforcement mechanism. Both sides agree to monitor implementation of the provisions herein to be available for meeting requested by either side and after reasonable notice in order to review any conflict that might result during the implementation phase of this document.

Accordingly, agreements and understanding contained in this Letter of Understandings are viewed by parties as an effort to address their concerns, issues, and perceptions. The parties understand and agree that the duration of this Letter of Understanding is for the period of two years beginning on the date of signing.

We thereby affix our signatures this 1st day of June, 1994

KENTWOOD PUBLIC SCHOOLS
KENTWOOD, MICHIGAN

Dr. Mary Likar, Superintendent of Schools

Linda Davis, School Board Member

Rosemary Ervine, Assistant Superintendent for Instruction

Patricia Brown, Principal ~~Middle School~~ Elementary School

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EAST KENTWOOD HIGH SCHOOL
GAINES TOWNSHIP, MICHIGAN

Larry J. Corbett
Larry Corbett, Principal

COMMITTEE OF CONCERNED CITIZENS

Linda Hitchcock, Parent

Curtis Agard, Student

Kamau Hosey, Parent

Tia Bates, Student

Barbara Blassingame
Mrs. Blassingame, Parent

Nellie Blue
Nellie Blue, NAACP

Rodney Brooks
Rodney Brooks, Urban League

Billy Taylor
Billy Taylor,
Community Representatives

U.S DEPARTMENT OF JUSTICE
COMMUNITY RELATIONS SERVICE
DETROIT FIELD OFFICE

Witness: Gustavo Gaynett
Gustavo Gaynett, Director

Appendix VII
Public Act 328

STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994

Introduced by Senators Gougeon, Dunaskiss, DiNello, Stell, Claby, Bouchard, Dillingham and Emmons

ENROLLED SENATE BILL No. 966

AN ACT to amend section 1311 of Act No. 451 of the Public Acts of 1976, entitled as amended "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and classify the laws relating to elementary and secondary education; to provide for the classification, organization, regulation, and maintenance of schools, school districts, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, and intermediate school districts; to provide for the regulation of school teachers and school administrators; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal certain acts and parts of acts," as amended by Act No. 335 of the Public Acts of 1993, being section 380.1311 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 1311 of Act No. 451 of the Public Acts of 1976, as amended by Act No. 335 of the Public Acts of 1993, being section 380.1311 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 1311. (1) Subject to subsection (2), the school board, or the school district superintendent, a school building principal, or another school district official if designated by the school board, may authorize or order the suspension or expulsion from school of a pupil guilty of gross misdemeanor or persistent disobedience if, in the judgment of the school board or its designee, as applicable, the interest of the school is served by the authorization or order. If there is reasonable cause to believe that the pupil is handicapped, and the school district has not evaluated the pupil in accordance with rules of the state board to determine if the student is handicapped, the pupil shall be evaluated immediately by the intermediate school district of which the school district is constituent in accordance with section 1711.

(2) If a pupil possesses in a weapon free school zone a weapon that constitutes a dangerous weapon, or commits arson in the school building or on the school grounds, or rapes someone in the building or on school grounds, the school board, or the designee of the school board as described in subsection (1) on behalf of the school board, shall expel the pupil from the school district permanently, subject to possible reinstatement under subsection (5), unless the pupil establishes in a clear and convincing manner at least 1 of the following:

(a) The object or instrument possessed by the pupil was not possessed by the pupil for use as a weapon, or for direct or indirect delivery to another person for use as a weapon.

(b) The weapon was not knowingly possessed by the pupil.

(c) The pupil did not know or have reason to know that the object or instrument possessed by the pupil constituted a dangerous weapon.

(d) The weapon was possessed by the pupil at the suggestion, request, or direction of, or with the express permission of, school or police authorities.

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(3) If an individual is expelled pursuant to subsection (2), the expelling school district shall enter on the individual's permanent record that he or she has been expelled pursuant to subsection (2). Except if a school district operates or participates in a program appropriate for individuals expelled pursuant to subsection (2) and in its discretion admits the individual to that program, an individual expelled pursuant to subsection (2) is expelled from all public schools in this state and the officials of a school district shall not allow the individual to enroll in the school district unless the individual has been reinstated under subsection (5). Except as otherwise provided by law, a program operated for individuals expelled pursuant to subsection (2) shall be operated in facilities or at times separate from those used for the general pupil population.

(4) If a school board expels an individual pursuant to subsection (2), the school board shall ensure that, within 3 days after the expulsion, an official of the school district refers the individual to the appropriate county department of social services or county community mental health agency and notifies the individual's parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, notifies the individual of the referral.

(5) The parent or legal guardian of an individual expelled pursuant to subsection (2) or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(a) For an individual who was enrolled in grade 5 or below at the time of the expulsion, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 60 school days after the date of expulsion. For an individual who was in grade 6 or above at the time of expulsion, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 150 school days after the date of expulsion.

(b) An individual who was in grade 5 or below at the time of the expulsion shall not be reinstated before the expiration of 90 school days after the date of expulsion. An individual who was in grade 6 or above at the time of the expulsion shall not be reinstated before the expiration of 180 school days after the date of expulsion.

(c) It is the responsibility of the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, of the individual to prepare and submit the petition. A school board is not required to provide any assistance in preparing the petition. Upon request by a parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual, a school board shall make available a form for a petition.

(d) Not later than 10 school days after receiving a petition for reinstatement under this subsection, a school board shall appoint a committee to review the petition and any supporting information submitted by the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual. The committee shall consist of 2 school board members, 1 school administrator, 1 teacher, and 1 parent of a pupil in the school district. During this time the superintendent of the school district may prepare and submit for consideration by the committee information concerning the circumstances of the expulsion and any factors mitigating for or against reinstatement.

(e) Not later than 10 school days after all members are appointed, the committee described in subdivision (d) shall review the petition and any supporting information and information provided by the school district and shall submit a recommendation to the school board on the issue of reinstatement. The recommendation shall be for unconditional reinstatement, for conditional reinstatement, or against reinstatement, and shall be accompanied by an explanation of the reasons for the recommendation and of any recommended conditions for reinstatement. The recommendation shall be based on consideration of all of the following factors:

(i) The extent to which reinstatement of the individual would create a risk of harm to pupils or school personnel.

(ii) The extent to which reinstatement of the individual would create a risk of school district or individual liability for the school board or school district personnel.

(iii) The age and maturity of the individual.

(iv) The individual's school record before the incident that caused the expulsion.

(v) The individual's attitude concerning the incident that caused the expulsion.

(vi) The individual's behavior since the expulsion and the prospects for remediation of the individual.

(vii) If the petition was filed by a parent or legal guardian, the degree of cooperation and support that has been provided by the parent or legal guardian and that can be expected if the individual is reinstated, including, but not limited to, receptiveness toward possible conditions placed on the reinstatement.

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(f) Not later than the next regularly scheduled board meeting after receiving the recommendation of the committee under subdivision (e), a school board shall make a decision to unconditionally reinstate the individual, conditionally reinstate the individual, or deny reinstatement of the individual. The decision of the school board is final.

(g) A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or legal guardian to agree in writing to specific conditions before reinstating the individual in a conditional reinstatement. The conditions may include, but are not limited to, agreement to a behavior contract, which may involve the individual, parent or legal guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may include proposed conditions in a petition for reinstatement submitted under this subsection.

(6) A school board or school administrator that complies with subsection (2) is not liable for damages for expelling a pupil pursuant to subsection (2), and the authorizing body of a public school academy established under part 6a is not liable for damages for expulsion of a pupil by the public school academy pursuant to subsection (2).

(7) Not later than 90 days after the effective date of the amendatory act that added this subsection, the department shall develop and distribute to all school districts a form for a petition to be used under subsection (5).

(8) Subsections (2) to (7) do not diminish the due process rights under federal law of a pupil who has been determined to be eligible for special education programs and services.

(9) As used in this section:

(a) "Dangerous weapon" means that term as defined in section 1313.

(b) "School board" means a school board, intermediate school board, or the board of directors of a public school academy established under part 6a.

(c) "School district" means a school district, a local act school district, an intermediate school district, or a public school academy established under part 6a.

(d) "Weapon free school zone" means that term as defined in section 237a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.237a of the Michigan Compiled Laws.

Section 2. This amendatory act shall take effect January 1, 1996.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

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Appendix VIII
Violence and Vandalism Study Group Recommendations

STATE OF MICHIGAN

DEPARTMENT OF EDUCATION

P.O. Box 30008
Lansing, Michigan 48909

December 22, 1994

ROBERT E. SCHILLER

STATE BOARD OF EDUCATION

GOVERNOR JOHN ENGLER

TO:
Julie Allen
Alex Bailey
Jim Ballard
Claude Brittingham
Thomas Carnegie
Patrick Clark
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Rudy Collins
Gary Faber
Sigrid Grace
Seymour Gretchko
Terry Langton
Marcia Leone
William Mays
Roy McNeal
Michael Seltz
Charles Sturdivant
Ruth Ann Zeigler
Ruth Zweifler

FROM: Ivan L. Cotman

SUBJECT: Violence and Vandalism Draft Recommendations to be Submitted to the State Board of Education

Attached is a draft of the recommendations which were adopted at the Violence and Vandalism Study Group meeting on December 14, 1994. Please review them and return your corrections or additions to me by January 3, 1995 at the following address:

Dr. Ivan L. Cotman
Michigan Department of Education
P.O. Box 30008
Lansing, Michigan 48909

The Study Group recommendations are expected to be submitted to the State Board of Education at its meeting on February 8, 1995. After reviewing your comments, I will incorporate them into the State Board of Education format with background information covering the many discussions, presentations and agenda items which led to the final Study Group recommendations. The State Board of Education materials will be sent to you and other Study Group members prior to the presentation date.

SUBCOMMITTEE OF THE STUDY GROUP ON VIOLENCE & VANDALISM

Subcommittee Recommendations to be Submitted to
State Board of Educaton on February 9, 1994

1. We recommend that "THE DATA COLLECTED BY THE MICHIGAN DEPARTMENT OF EDUCATION REGARDING VIOLENCE AND VANDALISM ONLY PERTAIN TO THE DEPARTMENT MANDATE AS SET FORTH IN SECTION 158a IN THE STATE AID ACT AND ANY OTHER STATE OR FEDERAL LEGAL REQUIREMENTS." We recommend that the reporting system for Section 158a be presented to the Board in conjunction with this report.

2. We recommend to the State Board of Education for action the uniform Violence and Vandalism definitions to be used as guidelines by local school districts and as part of the data collection activities as mandated in Section 158a of the School Aid Act.

3. We recommend that the Michigan Department of Education take immediate action to convene a task force comprised of membership from state and local Departments of Social Services, Mental Health, juvenile and probate courts, and other appropriate agencies, designed to develop interagency agreements to provide alternative education options for suspended or expelled Michigan students.

4. We recommend to the State Board of Education that it take action to ensure that expelled students have continued education by forming a Subcommittee of practioners from alternative educational and violence prevention programs, local education agencies, colleges and universities, state government, and private citizens to review the state of alternative education and violence prevention programs and, if necessary, make recommendations for improvement.

   A. Adopt a policy defining the characteristics of effective options.

   B. Collect and support the dissemination of information on local schools with model programs.

   C. Compile and distribute a list of effective Michigan programs.

   D. Develop statewide program standards in line with existing core curriculum, school improvement, and accreditation initiatives.

   E. Review existing interagency agreements between public agencies which offer programs to insure that all students needing such programs may have access and benefit from them.

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F. Review public funding structures supporting current programs.

G. Compile data on student suspension, expulsion and referral to alternative and traditional educational settings.

H. Review local procedures for moving students between alternative and traditional educational settings.

I. Determine what programs exist for youth in the elementary grades, especially for students in kindergartgen through grade six.

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